Commission of Inquiry on War Criminals

Report

Part 1: Public

CANADA

Honourable Jules Deschênes
Commissioner

30 December 1986

87-04051/

Commission of Inquiry on War Criminals

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Commissioner

Ottawa, Canada, 30 December 1986

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Commission d'enquête
sur les criminels de guerre

CANADA

Commission of Inquiry
on War Criminals

Commissaire
L'honorable Jules Deschênes, LL.D., s.r.c.

Counseillers juridiques
Me L. Yves Fortier, O.C., C.R.
Me Michael A. Meighen, C.R.

Secrétaire
Karen D. Logan, D.Phil. (Oxon)

Commissioner
The Honourable Jules Deschênes, LL.D., F.R.S.C.

Counsel
L. Yves Fortier, O.C., Q.C.
Michael A. Meighen, Q.C.

Secretary
Karen D. Logan, D.Phil. (Oxon)

To Her Excellency the
Governor General in Council
Ottawa, Canada.

May it please Your Excellency:

By Order-in-Council PC-1985-348 of 7 February 1985, I have been appointed Commissioner to inquire into the matter of alleged war criminals in Canada. I now beg to submit the following Report.

In view of the nature of this inquiry, my Report is divided into two Parts: Part I, which is designed for publication; Part II, which is destined to remain confidential.

Respectfully submitted.

Commissioner

30 December 1986

C.P. / P.O. Box 1992, Succursale / Station "B"
Ottawa, Canada K1P 5R5

NOTE

The Report of the Commission of Inquiry on War Criminals as submitted to the Governor in Council on December 30, 1986 included 822 opinions on individual cases set out in Sections (d), (e) and (f) of Chapter I-8 and in Chapter I-9. All of these opinions have been retained in this published version, but the specific wording of some of them has been made more general in order to reduce the possibility of identification of individuals. No other changes have been made to any other part of the Report. Such changes as were made are of no significance in the context of the Report as a whole and the Commissioner agrees that they do not in any way impair the integrity or detract from the substance of the Report and of its findings and recommendations.

COMMISSION PERSONNEL

L. Yves Fortier, O.C., Q.C.
Michael A. Meighen, Q.C.
Chief Counsel

Karen D. Logan
Secretary

Jean-Paul Drapeau
Director of Investigations

Mary Ann Allen
Director of Administration and Security

Robert A. Short
Security and Hearings Co-ordinator

William J. Brennan
Registrar

Professor Raul Hilberg
Professor Peter Hoffman
Special Advisers

Legal Counsel and Consultants

Douglas N. Abra
Jacques Allard
Peter Hargadon
Anthony Keenleyside
William McNamara
Solveig Schuster
Jacques Bellemare
Donald P. Bryk
Gowan T. Guest, Q.C.
John I. Laskin
E. Neil McKelvey, Q.C.
Michel Proulx
Sharon A. Williams

Research Consultants and Staff

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Alti Rodal
Paula Draper
Ann Latchford-Scott
Roman Waschuk

Investigation Staff

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Brenton Spencer

Jacqueline Hart
Head, Resource Centre

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Chapter I-1

FINDINGS AND RECOMMENDATIONS

Chapter I-1

FINDINGS AND RECOMMENDATIONS

Definition

For purposes of this report, the Commission defines "war criminals" as follows:

All persons, whatever their past and present nationality, currently resident in Canada and allegedly responsible for crimes against peace, war crimes or crimes against humanity related to the activities of Nazi Germany and committed between 1 September 1939 and 9 May 1945, both dates inclusive.

Findings and Recommendations

The Commission's **FINDINGS and RECOMMENDATIONS** are so closely intertwined that the Commission has not felt it desirable to separate them into two categories. **Recommendations bearing on amendments to the law are however stated in bold characters.** Each number in brackets at the end of a paragraph shows the corresponding page in the body of the report.

1- Shortly after World War II, trials were held in Europe for crimes committed against members of the Canadian Armed Forces: four trials involving seven accused were held by the Canadian Forces; at least six other trials involving 28 accused were held by the British Forces on behalf of Canada. (p. 33)

2- In 1948 a stop was put to war crimes trials as a result of a secret suggestion made by the United Kingdom to seven "Dominions", to which Canada responded that it had "no comment to make". (p. 33)

3- The matter of war crimes officially lay dormant in Canada for a third of a century when it was reactivated mainly at the initiative of then Solicitor General, Honourable Robert P. Kaplan, P.C. (p. 33)

4- Canadian policy on war crimes during that long period was not worse than that of several Western countries which displayed an equal lack of interest. (p. 33)

5- In order not to thwart lawful investigations by commissions of inquiry or the RCMP or investigative bodies specified in the regulations pursuant to ss. 8(2)(e) of the *Privacy Act* (1980-81-82-83, S.C. c. 111, Schedule II):

  a) the mention of s. 19 of the *Old Age Security Act* (1970 R.S.C., c. 0-6) should be deleted from Schedule II to the *Access to Information Act* (1980-81-82-83 S.C. c. 111, Schedule I);

  b) s. 19 of the *Old Age Security Act* should be amended by adding to the exceptions listed in ss. 19(2)(a): commissions of inquiry, the RCMP and the above-mentioned investigative bodies;

  c) ss. 19(2) of the *Old Age Security Act* should be further amended in order to make compulsory, rather than discretionary, the disclosure of information requested in the discharge of their duties by the bodies enumerated in this recommendation. (p. 55)

6- On the basis of the weight of the available evidence, it is established beyond a reasonable doubt that Dr. Joseph (Josef) Mengele has never entered Canada. (p. 76)

7- Apart from being an alias for Dr. Joseph (Josef) Mengele, the name of Josef Menke was also that of an actual SS Major, who, however, never came to Canada. (p. 77)

8- Dr. Joseph (Josef) Mengele did not apply in Buenos Aires in 1962 for a visa to enter Canada, either under his own name or under any of his several known aliases. (p. 82)

***Caveat*: recommendations 9 through 16, dealing with extradition, must be read against the backdrop of the statutory discretion of the Minister of Justice, which the Commission shall not discuss.**

9- Extradition of a war criminal to the Federal Republic of Germany should, if requested, be favourably considered, once prima facie evidence has been brought of the suspect's commission of the alleged crime. (p. 91)

10- Under the 1967 *Extradition Agreement* between Canada and Israel as it now stands, no request for extradition based on Nazi war crimes can be entertained. (p. 92)

11- The 1967 extradition agreement between Canada and Israel should however be amended:

  a) To abrogate the restriction, introduced into art. 21 in 1969, as to the date of the offence or the conviction for which extradition is sought; and

  b) To allow for executive discretion by the requested state, following the model in art. III of the 1962 U.S.A.—Israel

Extradition treaty, when extraterritorial jurisdiction is asserted by the requesting state. (p. 96)

12- Requests for extradition of war criminals by other countries having a treaty with Canada should be favourably considered, when the usual conditions provided by law are met. (p. 97)

13- Requests for extradition of war criminals by countries having no treaty with Canada cannot be entertained either under the 1942 *St. James's Declaration*, the 1943 *Moscow Declaration*, the 1945 *London Agreement*, the 1946 and 1947 relevant *Resolutions* of the United Nations General Assembly or the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*. (p. 102)

14- Even in the absence of a bilateral treaty, requests for extradition of war criminals from Canada may be entertained under the 1949 *Geneva Conventions* relative to the treatment of prisoners of war and relative to the protection of civilian persons in time of war, provided the requesting state be a party to the relevant convention (as are Poland and the USSR) and the charge constitute both one of the "grave breaches" described in such convention and a war crime. (p. 105)

15- Section 36 of the *Extradition Act* (1970 R.S.C. c. E-21) should be amended in order to apply to crimes — limited to war crimes — committed before the Proclamation of Part II of the Act (this principle is already enshrined in s. 12 of Part I of the Act). (p. 108)

16- War crimes do not partake of the nature of "offences of a political character" and are not, as such, placed out of the reach of the extradition process. (p. 111)

17-, 18- and 19-

No prosecution for Nazi war crimes can be successfully launched under the *Criminal Code* or under the *War Crimes Act* (1946, 10 George VI, c. 73) or under the *Geneva Conventions Act* (1970 R.S.C., c. C-3) as the Code and each Act now stand. (pp. 116, 123 and 126)

20- Neither conventional international law nor customary international law *stricto sensu* can support the prosecution of war criminals in Canada. (p. 132)

21- Prosecution of war criminals can however be launched on the basis of customary international law *lato sensu* inasmuch as war crimes are violations of the general principles of law recognized by the community of nations, which art. 11 (g) of the *Canadian Charter of Rights and Freedoms* has enshrined in the Constitution of Canada. (p. 132)

22- By virtue of art. 11 (g) of the *Canadian Charter of Rights and Freedoms*, Parliament can pass enabling legislation, even of a retroactive character, to permit the prosecution and punishment of war criminals. (p. 148)

23- Should prosecutions be launched against war criminals, a delay of some 45 years will have elapsed between the alleged crimes and the laying of the charges. It shall belong to the executive and, eventually, to the judiciary to examine the effect, if any, of this delay on the prosecutions. (p. 150)

24- Bill C-215: *an Act respecting war criminals in Canada*, introduced in 1978 by the Honourable Robert P. Kaplan, would not have achieved the result desired by its mover, especially because of the lack of retroactivity of the *Geneva Conventions*. (p. 156)

25- In view of its essential features, the *War Crimes Act* cannot be conveniently amended in order to deal with war criminals in Canada. (p. 157)

26- The contention that the *Geneva Conventions Act* could be amended in order to deal with war criminals in Canada is not tenable. (p. 157)

27- The *Criminal Code* should be used as the vehicle for the prosecution of war criminals in Canada. (p. 163).

28- Section 6 of the *Criminal Code* should be amended by adding thereto the following subsections:

"(1.9) For the purposes of this section, 'war crime' and 'crime against humanity' mean respectively:

a) War crime: a violation, committed during any past or future war, of the laws or customs of war as illustrated in paragraph 6 (b) of the *Charter* of the International Military Tribunal which sat in Nürnberg, and irrespective of the participation or not of Canada in that war;

b) Crime against humanity: an offence committed in time either of peace or of a past or future war, namely murder, extermination, enslavement, deportation or other inhumane act committed against any civilian population or persecution on political, racial or religious grounds whether or not in violation of the domestic law of the country where perpetrated, as illustrated, but without limitation in time or space, in paragraph 6 (c) of the *Charter* of the International Military Tribunal which sat in Nürnberg.

(1.10) Notwithstanding anything in this Act or any other Act,

a) where a person has committed outside Canada, at any time before or after the coming into force of this subsection, an act or

omission constituting a war crime or a crime against humanity, and

b) where the act or omission if committed in Canada would have constituted an offence under Canadian law,

that person shall be deemed to have committed that act or omission in Canada if

c) the person who has committed the act or omission or a victim of the act or omission was, at the time of the act or omission,
  (i) a Canadian citizen, or
  (ii) a person employed by Canada in a military or civilian capacity; or

later became a Canadian citizen; or

d) the person who has committed the act or omission is, after the act or omission has been committed, present in Canada.

(1.11) No proceedings shall be instituted under s.s. 1.9 or 1.10 except by the Attorney General of Canada or counsel instructed by him for the purpose. (p. 167)

29- **Without eliminating the final role of the Governor-in-Council, the procedures leading to revocation of citizenship (denaturalization) and to deportation—at least in cases of suspected Nazi war criminals—should be streamlined and consolidated;** (p. 173)

30- **The deportation hearing should be elevated to the level of the judicial process, as in denaturalization; the two hearings should then be joined before the same authority, with two provisoes:**

  a) that the denaturalization phase should proceed first and be decided before the deportation phase is dealt with;

  b) that the findings of facts in the first phase should be held as conclusive with respect to the second phase. (p. 173)

31- **Judicial appeals should be denied or, at most, a single appeal should be provided for against denaturalization and deportation orders together.** (p. 174)

32- In the matter of denaturalization, the substance of the rights of the Crown and the rights and liabilities of the citizen should be governed by the Act under which they accrued, even if the Act was repealed in the meantime; the procedure should be governed by the Act in force when the legal proceedings are commenced. (p. 177)

33- The grounds for revocation of citizenship are, in most cases, those enumerated in the 1946 *Canadian Citizenship Act*: false representations, fraud or concealment of material circumstances. (p. 184)

34- Those grounds should be applied both to the citizenship process and to the earlier immigration process. (p. 184)

35- Those grounds should be tested against the relevant statutes, Orders-in-Council, Cabinet Directives, Immigration, Security and Police regulations. (p. 185)

36- Proceedings in denaturalization are civil in nature; the burden of proof lies on the government. (p. 188)

37- In their assessment of the evidence, the courts should not be satisfied with less, but should not look for more than a probability of a high degree. (p. 188)

38- With respect to both immigration and citizenship, the applicant is under no other duty than to answer truthfully the questions put to him by the statutory authority; in so doing, however, the applicant ought to acknowledge a duty of candour implied in his obligation not to conceal circumstances material to his application, even absent any relevant questions. (p. 196)

39- Applications for citizenship are available from the earliest times; they are not likely, however, to yield useful results for the purpose of unveiling war criminals and leading to the revocation of their citizenship. (p. 199)

40- Applications for immigration and connected documents have been destroyed in large numbers over the years, consistently with retention and removal policies in force within Canadian government departments and agencies, more particularly Immigration, External Affairs, RCMP and CSIS, so that evidence for possible revocation of citizenship or deportation has become largely unavailable. (p. 207)

41- Recourse to ships' manifests, which have been microfilmed up to 1953, would be of little use, if any, in view of the absence thereon of questions relevant to the issue. (p. 208)

42- The destruction of a substantial number of immigration files in 1982-1983 should not be considered as a culpable act or as a blunder, but has occurred in the normal course of the application of a routine policy duly authorized within the federal administration. In any event, if a blunder there was, it arose out of the failure of the higher authorities properly to instruct of an appropriate exception the employees entrusted with the duty of carrying out the retention and disposal policy in their department. (p. 214)

43- The existence of a presumption of fact that a former immigrant, if a war criminal, must have lied for purposes either of immigration or of citizenship, cannot be taken generally for granted, in light of the conflicting evidence before the Commission. It must be left to the courts to decide whether, in any given case, such a presumption has been established with a probability of a high degree. (p. 224)

44- In order to prevent the granting of citizenship to war criminals or, as the case may be, to ease the revocation of citizenship of war criminals, the *Citizenship Act* (23-24-25 El. II, c. 108) should be amended

a) by adding to ss. 5.(1) the following paragraph (f):

"(f) has not committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6.(1.9) of the *Criminal Code*.";

b) by adding after the word "person", in the 7th line of ss. 5.(4) the following:

"except a person barred under paragraph 5.(1)(f)";

c) by adding after the word "circumstances", in the 8th line of ss. 9.(1), the following:

"or in spite of having committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*,";

d) by striking, at the end of paragraph 10.(1)(b),the word "and";

e) by adding, in ss. 10.(1), the following paragraph (c):

"(c) has not committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*; and";

f) by renumbering "(d)" paragraph 10.(1)(c);

g) by adding, at the end of paragraph 17.(1)(b), the following:

"or in spite of having committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*." (p. 226)

45- The immigration screening process and interview procedure should be tightened, so that:

a) a minimum and standard set of questions to be put to the applicant be established by regulation;

b) such questions bear explicitly on the applicant's past military, para-military, political and civilian activities;

c) all further questions to the applicant and all answers by the applicant be reduced to writing and signed by the applicant;

d) the applicant be required to sign a statement providing, in substance, that he has supplied all information which is material to his application for admission to Canada and that an eventual decision to admit him will be predicated upon the truth and completeness of his statements in his application. (p. 227)

46- Where the application is granted, immigration application forms should be kept until either it is established or it can be safely assumed that the applicant is no longer alive. (p. 227)

47- There exist no legal or contractual obstacles, either domestically or internationally, for Canada to strip a war criminal of his acquired Canadian citizenship, even at the risk of rendering him stateless. (p. 230)

48- In order to reflect in Canadian legislation the exclusion of war criminals contained in the *Convention relating to the Status of Refugees*, the *Immigration Act, 1976* (25-26 El. II, c. 52) should be amended

a) by adding, in s. 2.(1), after the word "person" at the end of the first line of the definition of the words "Convention Refugee", the following:

"(except a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*)";

b) by adding, at the end of s. 4.(2)(b), the following:

"or a person coming within the exception to the definition of 'Convention Refugee' in s. 2.(1)";

c) by adding, at the end of s. 19.(1), the following paragraph (j):

"(j) persons who have committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*";

d) by replacing, in the fourth line of paragraph 27.(1)(a), "or (g)" by ",(g) or (j)";

e) by replacing, in the second and third lines of paragraph 55.(a), "or (g)" by ",(g) or (j)." (p. 232)

49- The notion of the valid acquisition of a Canadian domicile is dissolved, once fraud on entry is established against a suspect. (p. 234)

50- Even assuming that fraud on entry did not preclude the acquisition thereafter of a "fraudulently valid" Canadian domicile, such a domicile cannot constitute an obstacle to deportation of a war criminal. (p. 237)

51- **To dispel doubts surrounding the construction of certain statutory provisions:**

  a) **s. 9 of the *Citizenship Act*, 23-24-25 El. II, c. 108, should be amended by adding a provision making it declaratory, so as to render it explicitly applicable to situations arising under former laws on citizenship and immigration.**

  b) **s. 127 of the *Immigration Act, 1976*, 25-26 El. II, c. 52 should be amended by adding a second paragraph, as follows:**

> **"This section does not apply to a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*".** (p. 237)

52- **In order to assure the effectiveness of the deportation process in the case of war criminals, s. 54 of the *Immigration Act, 1976* should be amended by adding a paragraph (4), as follows:**

> **"(4) Notwithstanding s.s.(1), (2) and (3), when a removal order has been made against a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*, the Minister shall have full and sole discretion to select the country to which that person shall be removed."** (p. 238)

53- Should Parliament decide that an amendment to the *Criminal Code*, as proposed in recommendation 28 or otherwise, should encompass crimes against peace, recommendations 44, 48, 51 and 52 should then be understood also to cover crimes against peace. (p. 239)

54- Between 1971 and 1986, public statements by outside interveners concerning alleged war criminals residing in Canada have spread increasingly large and grossly exaggerated figures as to their estimated number. (p. 249)

55- Even leaving aside the figure of 6,000 ventured in 1986 by Mr. Simon Wiesenthal, and before a detailed examination of each of the cases appearing on the Commission's Master List, this List already shows no less than a 400 per cent over-estimate by the proponents of those figures. (p. 249)

56- The Galicia Division (14. Waffengrenadierdivision der SS [gal. Nr. 1]) should not be indicted as a group. (p. 261)

57- The members of the Galicia Division were individually screened for security purposes before admission to Canada. (p. 261)

58- Charges of war crimes against members of the Galicia Division have never been substantiated, neither in 1950 when they were first preferred, nor in 1984 when they were renewed, nor before this Commission. (p. 261)

59- Further, in the absence of evidence of participation in or knowledge of specific war crimes, mere membership in the Galicia Division is insufficient to justify prosecution. (p. 261)

60- No case can be made against members of the Galicia Division for revocation of citizenship or deportation since the Canadian authorities were fully aware of the relevant facts in 1950 and admission to Canada was not granted them because of any false representation, or fraud, or concealment of material circumstances. (p. 261)

61- In any event, of the 217 officers of the Galicia Division denounced by Mr. Simon Wiesenthal to the Canadian government, 187 (i.e., 86 per cent of the list) never set foot in Canada, 11 have died in Canada, 2 have left for another country, no *prima facie* case has been established against 16 and the last one could not be located. (p. 261)

62- The Commission has drawn up three lists of suspects: a Master List of 774 names (Appendix II-E); an Addendum of 38 names (Appendix II-F)) and a list of 71 German scientists and technicians (Appendix II-G). (p. 262)

63- Where the evidence at hand raises a serious suspicion of war crimes against an individual residing in Canada, the Government of Canada should obtain, where available, the evidence of witnesses living in a foreign country provided such country agrees, as the U.S.S.R. has done, to all the conditions stipulated by the Commission in its decision "On Foreign Evidence" of 14 November 1985 (Appendix I-M). (p. 268)

64- The files of the 341 suspects who never landed and are not residing in Canada should be closed. (p. 269)

65- The files of the 21 suspects who have landed in Canada, but left for another country (at least five of whom are deceased) should be closed. (p. 269)

66- The files of the 86 suspects who have died in Canada since landing in this country should be closed. (p. 270)

67- The files of the 154 suspects against whom the Commission could find no *prima facie* evidence of war crimes should be closed. (p. 270)

68- The files of the 4 suspects whom the Commission has been unable to find in Canada should be closed. (p. 270)

69- The last five figures form a total of 606 files which should therefore be closed immediately. (p. 270)

70- The Canadian Government should decide, as a matter of policy, whether to request the cooperation of those foreign governments which have not already denounced, on their own initiative, the 97 suspects, residing in Canada, against whom there may exist incriminating evidence abroad, namely: France, Czechoslovakia, Hungary, Israel, Poland, Romania, U.S.A., U.S.S.R., West Germany, Yugoslavia. (p. 272)

71- The appropriate Canadian authorities should interrogate 13 of those suspects, as well as 5 others in whose connection no further investigation abroad is indicated. (p. 272)

72- The 3 miscellaneous cases should be pursued according to the Commission's recommendations. (p. 272)

73- In 34 cases which remain outstanding, a decision should be taken as soon as answers from foreign agencies or other missing information are received. (p. 272)

74- Work should be pursued by the appropriate authorities concerning the 38 suspects appearing on the late ***Addendum*** list, in agreement with the relevant recommendations of the Commission. (p. 273)

75- Among the 71 files on German scientists and technicians (Appendix II-G) the following cases should be closed: (p. 274)

9 who entered Canada and have died in this country;
4 who entered Canada and left for another country;
2 who never entered Canada;
1 where there is no *prima facie* case.

76- In the 55 remaining files of this particular group, the Government of Canada should carry out the additional inquiries indicated in each individual opinion (see section f) of Chapter I-8) and then make a decision accordingly. (p. 274)

77- In the 9 cases where the Commission recommends, in Part II of its Report, that no prosecution be initiated and the file be closed, the Government of Canada, where it agrees with the recommendation, should so advise the individual suspect and his or her counsel. (p. 827)

78- In the 20 other cases where the Commission recommends, in Part II of its Report, that steps be taken toward either revocation of citizenship and deportation or criminal prosecution, urgent attention should be given to implementing those recommendations and, if necessary for that purpose, to bringing the necessary amendments to the law as well as actively seeking the co-operation of the interested foreign governments. (p. 827)

79- In all cases which still appear as outstanding in both Parts of the Commission's Report, the Government of Canada should take the necessary steps in order to pursue the interrogatories and inquiries, in Canada and abroad, which the Commission has indicated, and to bring each case to a close. (p. 830)

80- It should not be necessary nor indeed commendable to create for that purpose an organization similar to the Office of Special Investigations in Washington, D.C. (p. 830)

81- The Government of Canada might consider one or the other of the following options:

i) to give to the Department of Justice and to the RCMP a specific mandate bolstered by the following commitments:
    a) one official of the department to be given full authority;
    b) a full-time team of several lawyers, historians and police officers to be set up;
    c) ample financial resources to be supplied, in view of the considerable tasks to be performed across Canada and abroad;
    d) the responsible official to advise the Attorney General of Canada, through his Deputy, in matters of war crimes; or

ii) to renew the mandate of this Commission which possesses the power, among others, to summon the suspects and other witnesses for interrogation. (p. 830)

82- Should none of those options be retained, there would appear to be no other alternative but to close the whole matter of war criminals altogether. (p. 830)

Chapter I-2

THE COMMISSION

Chapter I-2

THE COMMISSION

This Commission, long in its task but short in its delays, was set up by Order No. 1985-348 of the Privy Council for Canada, approved by her Excellency the Governor General on 7 February 1985.[1] The minute reads as follows:

> WHEREAS concern has been expressed about the possibility that Joseph Mengele, an alleged Nazi war criminal, may have entered or attempted to enter Canada;
>
> WHEREAS there is also concern that other persons responsible for war crimes related to the activities of Nazi Germany during World War II (hereinafter referred to as war criminals) are currently resident in Canada;
>
> AND WHEREAS the Government of Canada wishes to adopt all appropriate measures necessary to ensure that any such war criminals currently resident in Canada, or hereafter found in Canada, are brought to justice.
>
> THEREFORE, the Committee of the Privy Council, on the recommendation of the Prime Minister, advises that, pursuant to the Inquiries Act, a Commission do issue under the Great Seal of Canada, appointing the Honourable Mr. Justice Jules Deschênes, of the Superior Court of Quebec, to be Commissioner under Part I of the Inquiries Act to conduct such investigations regarding alleged war criminals in Canada, including whether any such persons are now resident in Canada and when and how they obtained entry to Canada as in the opinion of the Commissioner are necessary in order to enable him to report to the Governor in Council his recommendations and advice relating to what further action might be taken in Canada to bring to justice such alleged war criminals who might be residing within Canada, including recommendations as to what legal means are now available to bring to justice any such persons in Canada or

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[1] The French version of this Order-in-Council was revoked and replaced by an amended version on 28 February 1985: P.C. 1985-635; *see* the French text of this Report.

whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes.

The Committee of the Privy Council further advised that:

(a) the Commissioner be authorized to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the inquiry and to sit at such times and at such places within or outside of Canada as he may decide from time to time;

(b) the Commissioner be authorized to have complete access to personnel and all relevant papers, documents, vouchers, records and books of any kind in the possession of departments and agencies of the Government of Canada and be provided with adequate working accommodation and clerical assistance;

(c) the Commissioner be authorized to engage the services of such staff and counsel as he deems necessary or advisable at such rates of remuneration and reimbursement as may be approved by the Treasury Board;

(d) the Commissioner be authorized to rent office space and facilities for the Commission's purposes in accordance with Treasury Board policy;

(e) the Commissioner be required to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to December 31, 1985 and file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;

(f) the Commissioner be directed that the proceedings of the inquiry be held in camera in all matters where the Commissioner deems it desirable in the public interest or in the interest of the privacy of individuals involved in specific cases which may be examined;

(g) the Commissioner be directed to follow established security procedures with regard to his staff and technical advisers and the handling of classified information at all stages of the inquiry;

(h) the Commissioner be directed, in making his report, to consider and take all steps necessary to preserve

    (a) the secrecy of sources of security information within Canada; and

    (b) the security of information provided to Canada in confidence by other nations;

(i) the inquiry be known as the Commission of Inquiry on War Criminals;

(j) the Commissioner be authorized to engage the services of such experts and other persons as are referred to in section 11 of the Inquiries Act who shall receive such remuneration and reimbursement as may be approved by the Treasury Board; and

(k) pursuant to section 37 of the Judges Act, the Honourable Mr. Justice Jules Deschênes be authorized to act as Commissioner in the said inquiry.

By Minutes of 12 December 1985,[2] 5 June 1986[3] and 30 September 1986,[4] the reporting date of the Commission was gradually extended to 30 June, 30 September and 30 November 1986.

In view of the nature of this inquiry, the Commission must divide its *Report* into two parts: *Part I*, which is designed for publication; *Part II*, which is destined to remain confidential. This is *Part I*: *The Public Report*.

The Commission established its headquarters in Ottawa. The Commission appointed as chief counsel Mr. L. Yves Fortier, O.C., Q.C. of Montreal and Mr. Michael A. Meighen, Q.C. of Toronto. It appointed as secretary Ms. Karen D. Logan, D.Phil. (Oxon) of Ottawa. The Commission is deeply indebted to them for their faithful and competent collaboration.

On 10 April 1985 the Commission published its "Rules of Practice and Procedure". They are reproduced in Appendix I-C.

The Commission received fourteen applications for standing, which are listed in Appendix I-D. Standing was granted to:

Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada

Canadian Jewish Congress

League for Human Rights of B'nai Brith Canada

Ukrainian Canadian Committee.

Counsel for the applicants, together with counsel for the Government of Canada and for various other parties, are listed in Appendix I-E. The Commission is indebted to all counsel for their courtesy and professional help during the whole course of this inquiry.

The Commission has held 28 days of public hearings in Montreal, Hull, Ottawa, Toronto and Winnipeg between 10 April 1985 and 6 May 1986.

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[2] P.C. 1985-3642; see Appendix I-A.

[3] P.C. 1986-1333; see Appendix I-B.

[4] P.C. 1986-2255; see Appendix I-T.

During those hearings the Commission heard 27 witnesses and received 18 submissions from interested groups or individuals. Public hearings, witnesses and submissions are listed respectively in Appendices I-F, I-G and I-H.

Between 25 April 1985 and 10 November 1986 the Commission has also held 38 days of *in-camera* hearings in Montreal, Hull, Ottawa, Toronto, Windsor, Winnipeg, Calgary and Vancouver during which it heard 58 witnesses and received five submissions from interested groups or individuals. Particulars appear in Part II of this Report.

By far, however, the larger part of the work of the Commission was carried out away from the hearing room; either in the office or in the library or in the field. For those purposes the Commission sought professional help in various fields of endeavour: law, social history, police investigation. The names of the Commission's advisers and consultants in those fields appear at the beginning of this report.

In the fields of law and social history, those consultants have produced, at the request of the Commission, nine studies of considerable interest which shed light on many questions that had received little or no attention up to now. The list of those studies — two in French, the others in English — appears in Appendix I-I. Those studies are available for consultation at the Public Archives. The Commission expresses the hope that they be translated and published as soon as possible; they will offer a useful complement to this Report, especially since they are actually referred to and quoted on several occasions in the Report.

The Librarian of the Supreme Court of Canada, Mrs. Pauline Cain, and members of her personnel have extended an unfailing courtesy to the Commission; their efficient co-operation has proven extremely helpful.

The Commission is pleased also to acknowledge the co-operation which it has received from various departments and agencies of the Government of Canada. They are listed in Appendix I-J.

Abroad, the Commission has enjoyed the help and is thankful for the collaboration of various departments and agencies attached to several foreign governments, as well as of several quasi-public voluntary organizations. Their names appear in Appendix I-K.

Of course the Commission could not have functioned without the constant help and co-operation of its clerical and other staff. Their names also appear at the beginning of this report. The Commission's thanks go to them and, especially, to Ms. Mary Ann Allen, Director of Administration and Security, Mr. Jean-Paul Drapeau, Director of Investigations, and Mr. Robert A. Short, Security and Hearings Co-ordinator.

The Commission has thought it useful to put at the very beginning of Part I of its Report its 82 public **Findings and Recommendations**.

Then, after putting the subject matter of the inquiry against its proper background, the report deals with the concept itself of war criminals. There follows a short exposition of the method of work adopted by the Commission. This leads into the *Mengele Affair*, which is followed by a detailed study of the various legal remedies that are or should be available to the Canadian authorities to deal with war criminals. The report then goes (by numbers only and without names) into the Master List which the Commission has established and explains the conclusion at which the Commission has arrived on 711 individual cases.

It also expounds the Commission's conclusions on the 38 names in List II and the 71 names in List III.

Part II: *The Confidential Report* contains the particulars of the *in-camera* sittings of the Commission and spells out the Master List with names and corresponding numbers as well as two other lists. It also contains detailed opinions in 29 specific cases.

All of those considerations, however, fall short of exhausting the mandate of the Commission. Time constraints built into the Order-in-Council itself have rendered this situation unavoidable. Part I of the Report will therefore consider the problem and make suggestions for future action.

Chapter I-3

THE FACTUAL BACKGROUND

Chapter I-3

THE FACTUAL BACKGROUND

9 May 1945. War was over in Europe. Yet crimes had been committed which no armistice could erase. Under the *London Agreement* of 1945, (exhibit P-7), and the *Charter of the International Military Tribunal*, (exhibit P-8), the historical trial of the major Nazi war criminals took place in Nürnberg in 1945-1946; 19 of the 22 accused were convicted, and 12 were sentenced to death. There followed, also in Nürnberg from 1946 through the spring of 1949, 12 cases involving doctors, judges, industrialists, generals, guards and killers. Of the 177 accused who could stand trial, 142 were convicted, and 25 were sentenced to death.

However, members of the Canadian Armed Forces had themselves fallen victim of criminal action. One hundred and seventy-one cases were actually investigated.[1] But what exactly happened afterwards is not easy to determine on the basis of the available evidence. At the outset, the Canadian Forces launched their own prosecutions and held their own public trials in Aurich, Germany. The army tried General Kurt Meyer who was sentenced to death by shooting. The sentence was later commuted to imprisonment which was served in Canada. According to His Honour Bruce J. S. MacDonald, who had acted as chief prosecutor at the trial, Meyer was then sent back to Germany where he died a few years later.[2] The RCAF prosecuted six accused in three separate trials: Neitz, Jung, Schumacher, Weigel, Ossenbach and Holzer. According to the Honourable A. A. Cattanach, who acted in the three cases as judge advocate, the six accused were found guilty, and the following sentences were meted out: three sentences of death by shooting, one life imprisonment, and two jail sentences of 15 years and 10 years each.[3]

By then, however, Canadian troops were repatriated, and no Canadian personnel remained overseas for the conduct of further trials. Yet the business of prosecuting the authors of war crimes was far from over. In his final report for the No. 1 Canadian War Crimes Investigation Unit, Lt.-Col. MacDonald, (as he then was) commented: [4]

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[1] Karwandy, evidence, vol. II, p. 140; report of No. 1 Canadian War Crimes Investigation Unit, March 1946, exhibit P-11.

[2] MacDonald, evidence, vol. II, pp. 173-174.

[3] Cattanach, evidence, vol. II, p. 189.

> Owing however to the withdrawal of the Canadian Army and RCAF Occupation Forces from the Continent and the rapid repatriation of Canadian establishments, it will soon be no longer possible to bring war criminals to trial in a Canadian military court overseas. Consequently recommendations have been made to transfer the unfinished task of investigation and trial to the British equivalent organizations, and the latter have consented to undertake this work if desired. The matter is now being considered.

Before the Commission, Mr. MacDonald stated that this was "in fact what took place".[5]

Now in the final report of the Army's War Crimes Investigation Section, dated 30 August 1947, one can read:[6]

> As of June 1947 (. . .) Some 14 accused were about to be tried, 16 were in custody and under investigation, and there were 10 accused still at large and the object of search.

The Commission has tried, through personal contacts in London and correspondence with the British Ministry of Defence, to establish what subsequently happened. It has proven impossible to reconstruct completely the sequence of events, but it appears reasonably certain that further trials were held under the responsibility of the British authorities, involving the alleged authors of war crimes committed against Canadian military personnel. Documents P-98 and P-100, from the British Ministry of Defence, show that at least six other trials took place with no less than 28 accused. The following sentences were handed down: 11 sentences to death; four to imprisonment: 20 years, 15 years, and two for seven days; 12 acquittals; and one accused had not been found. Seven other cases were closed, either due to insufficient evidence or due to the disappearance of the accused.

By then — it was either late 1947 or early 1948 — the British were thinking of the political future of Europe: there is no need to recall here the history of post-war events. On 12 April 1948, the Overseas Reconstruction Committee of the British Cabinet "agreed that no further trials of war criminals should be started after 31 August 1948. Any trials started before that date would of course be completed."[7]

On 13 July 1948, the British Commonwealth Relations Office sent a secret telegram to the seven Dominions (as they were then called): Canada,

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[4] Exhibit P-11, Report: 30 March 1946, Introductory Note, p. 2.

[5] Evidence, vol. II, p. 176.

[6] Exhibit P-10, Final Report of the War Crimes Investigation Section, 30 August 1947, p. 4, paragraph 20.

[7] Exhibit P-100, Note of the British Army Historical Branch.

Australia, New Zealand, South Africa, India, Pakistan and Ceylon. It suggested essentially that:

> (a) as many as possible of cases which are still awaiting trial should be disposed of by 31st August, 1948, [un-completed trials which began before that date would continue].
>
> (b) In general, no fresh trials should be started after 31st August, 1948. This would particularly affect cases of alleged war criminals, not now in custody, who might subsequently come into our hands.

The British government explained its proposal as follows:

> 3. In our view, punishment of war criminals is more a matter of discouraging future generations than of meting out retribution to every guilty individual. Moreover, in view of future political developments in Germany envisaged by recent tripartite talks, we are convinced that it is now necessary to dispose of the past as soon as possible.

The British government asked for comments by 26 July. Canada answered on 22 July by an equally secret and cyphered cable:

> 2. This is to advise you that Canadian Government has no comment to make.

On 13 August 1948, the British Commonwealth Relations Office could write, over the signature of the Honourable Philip Noel-Baker, that:

> 3. From the Commonwealth point of view therefore the way now seems to be clear, so I assume that the O.R.C. decision of the 12th April will be put into effect.

It is not without interest that there immediately followed the caution:[8]

> I understand, however, that no public announcement is likely to be made about this.

And so the matter of war criminals quietly disappeared from the scene; and whether by coincidence or by design, in the third of a century which followed, Canada devoted not the slightest energy to the search and prosecution of war criminals. Assistant Commissioner R. R. Schramm, of the RCMP, has put it bluntly, both in his oral evidence and in his brief P-38. He stated in the latter document:

> Based on the presently available records, no formal policy relating to the investigation of war criminals can be identified for the period between 1945-62.

In 1962, a private denunciation concerning Dr. Josef Mengele caused some ripples in the civil service (see below, c. I-6); but the matter subsided rapidly. True, it brought about the first known policy statement of the RCMP with respect to war criminals, but this statement would not likely be found very disturbing.[9] It put the matter in the hands of RCMP Headquarters or External Affairs and it stressed that:

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[8] This exchange of views forms part of exhibit P-100.

> unless otherwise instructed by Headquarters, Ottawa, investigations into allegations of this nature are not to be conducted by the Force;

that:

> Canadian courts have no jurisdiction over such offences

and that:

> enquiries are not to be conducted for the primary purpose of determining whether or not a person is responsible for a war crime.

It would have taken a determined person indeed to initiate approaches to the RCMP in the light of such forbidding declarations.

No great opening could be detected in 1975 and 1976: "the Force does not conduct investigations into war crimes."[10]

In 1979, the RCMP advises that it[11]

> will only conduct an investigation into allegations of this nature when the request for an investigation and extradition is received through diplomatic channels from the Country of concern.

Significantly, it is only in 1982 that private citizens are taken in consideration in this field; even then, it is only for the purpose of advising them of the policy stated in 1979.[12]

For the first time, in 1983, the RCMP agrees officially to investigate a private citizen's complaint relating to a war criminal:[13]

> Upon receipt of information that a suspected war criminal is in Canada, an investigation shall be conducted to substantiate the information.

It is worth pointing out, incidentally, that the French version of this provision appears preferable:

> *À la réception de renseignements sur la présence possible d'un criminel de guerre au Canada, une enquête doit être menée afin d'en vérifier la véracité.*

The true purpose of the investigation is surely to "*vérifier la véracité des renseignements*" rather than to "substantiate the information".

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[9] Exhibit P-38, Appendix A.

[10] Exhibit P-38, appendices B and C.

[11] Exhibit P-38, appendices D and E.

[12] Exhibit P-38, Appendix F.

[13] Exhibit P-38, Appendix G.

In any event from 1945 to 1962, the RCMP had no official policy in matters of war crimes; and from 1962 to 1982 it frowned on private complaints. This attitude may explain that until as recently as 1982-1983, no specific resources were dedicated within the RCMP to war crime investigation, and that three people were assigned to that particular task as from that time.[14]

Indeed, as recently as 16 February 1982, the following answer was given by the government to a question put by a Member of the House of Commons:[15]

> Are attempts being made to track down and/or prosecute former SS, SD, Gestapo or German Nazi party members living or suspected of living in Canada?
>
> No.

The figures given by the RCMP, through Commission counsel, on its activities in the field of war crimes since 1945 also throw an interesting light on the matter: between 1945 and 1985, the RCMP opened 294 investigations concerning war crimes, out of which no less than 252, i.e., 86 per cent, were initiated from the spring of 1982.[16]

All of this is compatible with the general picture which emerges from a consideration of the whole of the evidence with respect to the attitude towards war crimes and war criminals in Canada.

Only in the very late 1970s and early 1980s, i.e., more than a generation after the end of World War II, did the question of war crimes begin to loom large on the horizon. More and more public statements started to draw the people's attention to the apparent problem. In October 1978, the Honourable Bob Kaplan, then a Member of Parliament, had introduced Bill C-215: [17] "An Act respecting war criminals in Canada". It never reached second reading. In 1980, Mr. Kaplan became Solicitor General of Canada, with authority over the RCMP. Mr. Kaplan showed a keen interest in the matter of war criminals: he created an interdepartmental committee to look into all facets of the problem;[18] in April 1980 he met in Washington with Nazi-hunter Simon Wiesenthal;[19] he also met there with Allan A. Ryan, of the Office of Special Investigations; [20] he went abroad in 1981 to convince foreign countries that, in the future, Canada would co-operate in connection with extradition requests. [21] The Cabinet heard of all those activities and, not surprisingly, the RCMP was instructed to take a new approach which was reflected in its policy statements referred to previously (exhibit P-38).

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[14] Schramm, evidence, vol. VI, p. 814.

[15] *Hansard*, House of Commons Debates, 16 February 1982, p. 15052.

[16] Evidence, vol. IX, pp. 1082-1083.

[17] Exhibit P-107.

[18] Evidence, vol. XX, p. 2549.

[19] Evidence, vol. XX, p. 2555 *ff.*

[20] *Ibid.*

[21] Evidence, vol. XX, p. 2575 *ff.*

It was on 17 June 1982, that Albert Helmut Rauca was arrested in Toronto following a request for extradition by the Federal Republic of Germany. Rauca was finally extradited in 1983 and died in prison while awaiting trial. [22] Until this inquiry was launched, Rauca would remain the only war crimes case on Canadian soil.

To be assessed properly, Canada's policy on war criminals ought, however, to be weighed in the perspective of the conduct which was adopted by the main countries interested in the war criminals issue. With that purpose in mind, the Commission, at the very beginning of its work, entrusted Mr. Donald M. Caskie with a comparative analysis of the policies adopted by various Governments in the matter of war criminals. The resulting study considers the following ten countries in alphabetical order:

Belgium
The Federal Republic of Germany (F.R.G.)
France
The German Democratic Republic (G.D.R.)
Italy
The Netherlands
Poland
The Union of Soviet Socialist Republics (U.S.S.R.)
The United Kingdom (U.K.)
The United States of America (U.S.A.)

The Commission refers the interested reader to the study itself for a detailed and most enlightening analysis of the situation; but a few general observations appear to be apposite.

There was considerable activity concerning war criminals in the immediate post-war period. These efforts, however, soon waned in the late 1940s in France, Italy, the United Kingdom and the U.S.A. The Netherlands and Belgium followed suit. The F.R.G. continued to show a substantial interest, though the lasting presence of former Nazis played a non-insignificant braking role. The U.S.S.R., Poland and the G.D.R. contributed a major effort to the pursuit of war criminals. In recent years, this effort has found a new life, especially in the U.S.A. and the F.R.G.

The Commission will not over-burden this Report with statistical data; one set of figures, where available, should suffice:[23]

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[22] **Federal Republic of Germany v Rauca**, 38 *O.R.* (2d) 705, conf. by the Ontario Court of Appeal 41 *O.R.* (2d) 225.

[23] The particulars which follow are taken from Mr. Caskie's study, "Bringing Nazi War Criminals to Justice".

Belgium

4,436 suspects; 523 located; 75 convictions.

30-year limitation came into effect in 1974.

F.R.G.

30-year limitation lifted in 1979 by a vote of 255 to 222.

6,482 convictions (42 between 1979 and 1984). 168 sentences to death or life imprisonment.

Conviction rate: 7.5 per cent from 1945 to 1978; 1.4 per cent for murder, from 1970 to 1978.

France

Limitation lifted in 1964 on crimes against humanity.

As of 1950: some 5,000 convictions (104 death sentences). None recent.

G.D.R.

From 1945 to 1965: 16,572 persons charged;

Conviction rate: 77 per cent.

Sentences: 118 death; 231 life imprisonment.

Italy

Lukewarm. All efforts before 1950. Numbers unknown.

Netherlands

From 1948 to 1952: 300 suspects tried; 20 tried since then.

197 convictions for murder.

Poland

About 40,000 suspects tried. Between 1944 and 1970: 5,340 Germans convicted. No other particulars available.

U.K.

In 1946: about 5,900 active files.

1,085 suspects tried; 240 death sentences. Last activity in 1949.
Some death sentences commuted. Last prisoner released in 1957.

U.S.S.R.

No legal limitation.

No data available. But one suspect executed in 1984; four suspects sentenced to death in 1980 and seven others in 1976 (figures not exhaustive).

U.S.A.

Up to 1949: 2,125 suspects tried; convictions: 1,615; sentences: 348 death; 267 life imprisonment.

1949 to 1979: indifference and inefficiency.

Since 1979: increased activity towards revocation of citizenship and deportation (a few dozen cases).

To a large extent Canada has followed the ebb and flow of those policies. In a study undertaken by Mrs. Alti Rodal, at the request of the Commission,[24] Mrs. Rodal writes (p. 58):

> The impression one gains from the archival record is one of reluctance on the part of the Allies, and of Britain in particular almost immediately after the war, to continue with war crimes trials.

When World War II ended, Canada showed some willingness to seek retribution from those who had committed crimes against members of the Canadian Armed Forces. But this effort did not last long, and the figures evidencing Canadian results cannot compare with those listed above. Then the issue of war criminals slumped into oblivion for over 30 years whilst, it must be acknowledged, some other countries were continuing the fight. The Commission will leave it to professional historians to examine the reasons which may explain this lack of interest on the part not only of successive governments, but of the people themselves.[25] It is however interesting to note Mr. Caskie's opinion upon concluding his own study:

> The central factor to consider in understanding why most countries have not sought out, prosecuted and punished Nazi war criminals to their full ability throughout the past forty years is that other issues have taken precedence (e.g., national rebuilding or the "Cold War") over bringing war criminals to justice which has been shifted, deliberately (as in France) or inadvertently to a lesser priority in their national agendas. The immediate post-war search for justice found and punished a considerable number of the obvious big-name

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[24] Rodal, "Nazi War Criminals in Canada: The Historical and Policy Setting from the 1940s to the Present".

[25] *Ibid.*, c. 1, Part II, pp. 6-62.

> war criminals. This crusading spirit has been difficult to sustain for a long period of time especially as most of the remaining war criminals were low in rank and importance.

This was the truer for Canada, since that "crusading spirit" never formed part of the Canadian heritage and only began shining in the 1980s.

The Commission accordingly *FINDS* that:

1 – Shortly after World War II, trials were held in Europe for crimes committed against members of the Canadian Armed Forces: four trials involving seven accused were held by the Canadian Forces; at least six other trials involving 28 accused were held by the British Forces on behalf of Canada.

2 – In 1948 a stop was put to war crimes trials as a result of a secret suggestion made by the United Kingdom to seven "Dominions", to which Canada responded that it had "no comment to make".

3 – The matter of war crimes officially lay dormant in Canada for a third of a century when it was reactivated mainly at the initiative of then Solicitor General, Honourable Robert P. Kaplan, P.C.

4 – Canadian policy on war crimes during that long period was not worse than that of several Western countries which displayed an equal lack of interest.

Before moving into a detailed examination of the situation as it now stands, it is, however, proper to stop here and take time to consider the concept itself of war criminals.

Chapter I-4

THE CONCEPT OF WAR CRIMINALS

Chapter I-4

THE CONCEPT OF WAR CRIMINALS

The Order-in-Council setting up this Commission of Inquiry has, for its own purposes, defined "war criminals"— "*criminels de guerre*" — as follows:

> . . . persons responsible for war crimes related to the activities of Nazi Germany during World War II . . . .
>
> *. . . personnes responsables de crimes commis dans le cadre des activités de l'Allemagne nazie durant la Deuxième Guerre mondiale . . . .*

Three conditions must therefore be met for persons to fall under the investigative scrutiny of the Commission:

(a) That they were responsible for "war crimes" — "*crimes*";

(b) That such crimes were related to the activities of Nazi Germany; and

(c) That such crimes were committed during World War II.

In reverse order, the *third* condition offers no difficulty: it is common ground that, in so far as Germany is concerned, the war started with the invasion of Poland on 1 September 1939 and ended in Europe with the surrender of Germany on 9 May 1945.

A question may be raised as to crimes committed between 1 September when Germany invaded Poland and 9 September when Canada declared war on the Axis powers. The latter date must undoubtedly be retained concerning the jurisdiction of Canadian military courts under the *War Crimes Act*.[1] But the Commission is independent of this Act, and its jurisdiction is based on the Order-in-Council which gives it authority to inquire into "war crimes related to the activities of Nazi Germany during World War II": it is, therefore, the war in the perspective of Nazi Germany which must be considered, and crimes in that war which must be punished. 1 September 1939 is the starting point.

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[1] (1946) 20 George VI, c. 73.

The *second* condition embraces war crimes "related to the activities of Nazi Germany". It therefore covers all criminal manifestations of Naziism, within or without traditional Germany and by whomsoever — German or other — they may have been instigated, pursued or accomplished.

Submissions, however, have been received from various quarters that the Commission should extend the field of its investigations to other alleged war criminals so as to cover not only the "Nazi side", but also the "Soviet side". But this would require an altogether different inquiry.

The Canadian government has decided to direct a searchlight on "war crimes related to the activities of Nazi Germany . . . — *crimes commis dans le cadre des activités de l'Allemagne nazie . . .*". It does not belong to this Commission to pass judgment on the wisdom of this decision or on its "moral validity";[2] nor should the Commission extend its mandate beyond the borders of its obvious meaning. It is true, as a prominent Member of Parliament has put it, that ". . .during the period 1939-1941(. . .) the Soviet government was in effect a partner of the Third Reich".[3] Yet crimes, if any, committed by the Soviet forces can, by no stretch of imagination, be classified under the heading "crimes related to the activities of Nazi Germany".

The Commission accordingly finds against such an extended construction of its mandate and must keep to its clearly stated terms of reference: Nazi Germany.

The *first* condition rests on the construction which ought to be given to the English phrase "war crimes", both read alone and understood in light of the concurrent use of the French word "*crimes*".

The concept of crimes committed in times of war has evolved over the centuries and was eventually crystallized in the 1945 *Charter* of the International Military Tribunal which sat at Nürnberg. Article 6 of the *Charter* provides:[4]

> Article 6. The Tribunal established by the Agreement referred to in Article I hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organisations, committed any of the following crimes:

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[2] Submission of the Executive Committee of Mennonite Central Committee Canada by William Janzen, 26 August 1985 (exhibit P-91), p. 4.

[3] Submission of Mr. David Kilgour, M.P. for Edmonton Strathcona, 18 September 1985 (exhibit P-93), p. 2.

[4] Judgment of the International Military Tribunal for the Trial of German Major War Criminals, Nuremberg, 1946: London, Cmd. 6964, p. 3.

> The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:
>
> (a) Crimes against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:
>
> (b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity:
>
> (c) Crimes against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.
>
> Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Of course this definition is posterior, generally speaking, to the commission of the acts with which alleged war criminals are charged. But by no means does it constitute new law. Indeed those acts were already broadly covered by the *Hague Convention* of 1907 respecting the laws and customs of war on land (Annex) as well as by the *Geneva Convention* of 1929 relative to the treatment of prisoners of war. It is thus obvious that the Nürnberg *Charter*, whilst plowing in the same direction as previous international instruments, was not pretending to create new crimes nor to effect retroactive retaliation.

The Nürnberg Tribunal itself wrote:[5]

> The *Charter* is not an arbitrary exercise of power on the part of the victorious nations but in the view of the Tribunal, as will be shown, it is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law.

The Tribunal added significantly:[6]

> The law of the *Charter* is decisive, and binding upon the Tribunal.

One should furthermore find comfort in the fact that the General Assembly of the United Nations has twice reaffirmed the principles proclaimed at Nürnberg. As early as 1946 the General Assembly devoted its third resolution to *Extradition and Punishment of War Criminals*,[7]

> taking note of the definition of war crimes and crimes against peace and against humanity contained in the *Charter* of the International Military Tribunal dated 8 August 1945;

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[5] *Ibid.*, p. 38.

[6] *Ibid.*, p. 38.

[7] Resolution 3 (I), 13 February 1946.

Later in the same year, the General Assembly,[8]

> *affirm[ed]* the principles of international law recognized by the *Charter* of the Nürnberg Tribunal and the judgement of the Tribunal;

The Nürnberg *Charter* therefore stands as the most modern codification of the issue and, in the opinion of the Commission, it offers the most convenient instrument to deal with war criminals.

Now one finds that, after having referred to the crimes at large, the Nürnberg *Charter* divided them into three categories: crimes against peace, war crimes and crimes against humanity. It is interesting to read in this light the Order-in-Council setting up this Commission: in its English version it refers specifically to "war crimes"; in its French version, it uses the shorter expression "*crimes*".

This raises a delicate question as to the jurisdiction of this Commission: is it limited to the definition of "war crimes" given in the 1945 *Charter*, or can it take the broader approach under which "war crimes" should be considered as a generic phrase, like the French word "*crimes*", pregnant as well of the meanings "crimes against peace" and "crimes against humanity"?

The argument in favour of a restrictive interpretation of the scope of the jurisdiction of the Commission is founded on the English version of the *Charter*. One must first remember that, in the words of the Nürnberg Tribunal:[9]

> The Tribunal is of course bound by the *Charter*, in the definition which it gives both of war crimes and crimes against humanity.

There appears the stress on the distinction between the different categories of "crimes" and the specific meaning which ought to be attached to the phrase "war crimes".

The international community has endorsed this distinction. For instance, five times in five consecutive years (1969 to 1973), the General Assembly recalled the need to punish those persons responsible for both war crimes and crimes against humanity.[10]

In turn the Economic and Social Council proclaimed the same distinction between war crimes and crimes against humanity: in 1965[11] and in 1966.[12]

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[8] Resolution 95 (I), 11 December 1946.

[9] *Ibid.*, p. 64.

[10] Resolution 2583(XXIV), 15 December 1969.
Resolution 2712 (XXV), 15 December 1970.
Resolution 2840 (XXVI), 18 December 1971.
Resolution 3020 (XXVII), 18 December 1972.
Resolution 3074 (XXVIII), 3 December 1973.

[11] Resolution 1074 (XL), 28 July 1965.

[12] Resolution 1158 (XLI), 5 August 1966.

Finally, the *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* adopted on 26 November 1968 and entered into force on 11 November 1970, bears the same distinction in its very title and expressly uses the phrases, "war crimes" and "crimes against humanity",

> . . . as they are defined in the *Charter* of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3(I) of 13 February 1946 and 95(I) of 11 December 1946 of the General Assembly of the United Nations . . . .

In Canada, it was also in the narrow sense that both the government in 1945 (*War Crimes Regulations*) and Parliament in 1946 (*War Crimes Act*[13]) used the phrase "war crimes": (schedule, regulations, s.2 [f]):

> "war crime" means a violation of the laws or usages of war committed during any war in which Canada has been or may be engaged at any time after the ninth day of September, 1939.

Save the inconsequential substitution of "usages" for "customs", one thus finds in the definition, which incidentally is still in force in Canada, the very same words as were used in the 1945 *Charter* to qualify one only of the three types of crimes which the Nürnberg Tribunal was clad with the jurisdiction to try.

Were we to stop at this point, we would probably be led to conclude that, by force of the first condition above-mentioned, the Commission must limit its inquiry to persons allegedly guilty of war crimes as they are statutorily and internationally defined, namely: violations of the laws or customs of war. Thus this inquiry would stop short of investigating, amongst others, possible crimes against humanity.

There is, however, another side to the coin, where one may feel engraved the arguments in favour of a more liberal approach to the mandate of the Commission. For instance, the *London Agreement* of 1945, of which the *Charter* is "an integral part" (art. 2), refers repeatedly in its very title, in its first preambular paragraph and in its arts. 1, 4 and 6 to "war criminals", without any distinction as to the nature of the crimes in which they would have been involved.

The United Nations War Crimes Commission also "agreed that 'crimes against humanity, as referred to in the Four Power Agreement of 8th August, 1945, were war crimes within the jurisdiction of the Commission' ".[14]

The matter must also be considered in light of the officially bilingual character of this country. Thus whilst the Order-in-Council which has set up this Commission uses, in English, the phrase "war crimes", one should not forego the equally important French version of the Order-in-Council which refers to "*crimes*", without any qualification.

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[13] *cf.* footnote 1, this chapter.

[14] United Nations War Crimes Commission, *History of the United Nations War Crimes Commission*, London, His Majesty's Stationery Office, 1948, p. 177.

This is also the term which the 1945 *Charter* has used both before and after establishing the three categories of international crimes; and it is interesting to notice that, in the opening paragraph of art. 6 of the *Charter*, the word "crimes" is linked to the phrase "war criminals" — "*criminels de guerre*" — thus showing the clear intention of giving to the latter expression the broadest connotation.

Furthermore, the French version of the Order-in-Council, on the face of it, could not be clearer. Let us recall its second paragraph:

> *Attendu qu'il est possible que d'autres personnes responsables de crimes commis dans le cadre des activités de l'Allemagne nazie durant la Deuxième Guerre mondiale (ci-après appelés "criminels de guerre") se trouvent actuellement au Canada;*

It is obvious that the Order-in-Council embraces each one of the three categories of crimes defined by the *Charter*. If read in its French version alone, it would open the door to no distinction and no discussion, thus giving to the Commission full freedom of inquiry into the three categories of international crimes.

To what extent can the French version of the Order-in-Council be relied upon?

One must first remember the ringing words of ss. 16(1) of the 1982 *Canadian Charter of Rights and Freedoms*:

> English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

The Order-in-Council was issued by the "Government of Canada": its two versions therefore "have equality of status".

When it comes to interpreting the Order-in-Council, one may then turn to the *Official Languages Act*.[15]

Indeed, although the Order-in-Council is not an act of Parliament, it partakes of analogous characteristics. Resort can therefore be made, for its interpretation, to the principles which apply in the field of legislation: these may not constitute a binding rule, but they surely should avail as a guide of wisdom.

Now, under the *Official Languages Act*,

> The English and French languages (. . .) possess and enjoy equality of status . . . [s.2]
> . . . both (. . .) versions (. . .) are equally authentic. [s.8 (1)]

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[15] (1970) R.S.C. c. 0-2.

and, in a case like the present one,

> . . . preference shall be given to the version (. . .) that, according to the true spirit, intent and meaning of the enactment, best ensures the attainment of its objects. [s.8(2) (d)].

This last provision has found an interesting application in 1979 in a Québec case under the *Juvenile Delinquents Act.*[16] In his recent treatise, *Construing Bilingual Legislation in Canada,*[17] Mr. Rémi Michael Beaupré has aptly summarized the issue:

> Under s.s. 37(3) of the Juvenile Delinquents Act, application for leave to appeal "shall be made within ten days of the making of the conviction or order complained of . . .". In French, the application not only has to be made, but it must also be presented: "doit être présentée". In *R. v. Boisvert*, the Superior Court of Québec was at first inclined to the view that, on the basis of the French version, the application had to be actually presented in court within the prescribed period. However, on the basis of the English version "shall be made" and the liberal interpretation placed on it by the anglophone provinces, the court concluded after referring to the principles in para. 8(2)(d) of the Official Languages Act and s.11 of the Interpretation Act, that the only reasonable interpretation was that the application needed only to be served and filed by the time prescribed.

The Court of Appeal reversed, but the Supreme Court of Canada reinstated the trial judge's decision, in an oral pronouncement rendered on 6 December 1979.[18] Thus in a Québec case the English version was preferred over the French one, in light of the objects of the Statute and the greater flexibility offered by the English version.

In his comprehensive work of 1982, *Interprétation des Lois,*[19] Professor Pierre-André Côté has commented on this method of interpretation:

[Translation]

> Undoubtedly the most frequent and least controversial use of the finality of a text consists in referring to such finality in order to define more accurately the meaning of a vague word, to make a choice between various possible meanings or to dispel any other doubt concerning its bearing.
>
> It is indeed beyond dispute that, when the wording opens the door to a difficulty of interpretation, is unclear, one may refer to the finality of the law or of the provision under discussion in order to choose that of the possible meanings which is most likely to realize that finality.

Keeping those principles in mind, the Commission is convinced that, when the Government of Canada ordered this inquiry, it wanted to put finally to rest the question of alleged war criminals in this country. Obviously it was concerned not only with the sole perpetrators of "war crimes" in the strict sense of the expression; it simply could not ignore the authors of, for example, crimes against humanity. Indeed, when announcing in the House of Commons the establishment of this Commission, the Minister of Justice, Honourable John C. Crosbie, stated ". . . that we must go to the very depths of the questions posed . . .".[20]

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[16] (1970) R.S.C. c. J-3.

[17] Beaupré, *Construing Bilingual Legislation in Canada*, Butterworths (Canada) Ltd., Toronto, 1981, p. 54.

[18] See Jules Deschênes, *Ainsi parlèrent les tribunaux*, Wilson & Lafleur Limitée, Montréal, 1981, vol. I, pp. 486-494; and vol. II, published in November 1985, p. XX.

[19] Coté, *Interprétation des Lois*, Les éditions Yvon Blais Inc., Cowansville, 1982, p. 337.

So the arguments stand, some in favour of a strict construction, others in favour of a broad interpretation of the scope of the Commission's inquiry. Should the Commission restrict its inquiry to "war crimes" strictly speaking, or is it at liberty to investigate allegations bearing on the three categories of international crimes?

It is the view of the Commission that the English text of the Order-in-Council does not close the door to either interpretation. It is, however, also its view that — using the very words of s. 8 of the *Official Languages Act* — in agreement with the true spirit, intent and meaning of the Order-in-Council establishing the Commission, the attainment of its objects would be best ensured through reliance on the broader French version.

The Commission is, therefore, led to conclude that, in construing and applying the first of the three conditions above- mentioned, the Commission shall take into consideration not only strictly war crimes, but the three categories of crimes listed in Nürnberg.

The Commission accordingly finds that its jurisdiction extends over all persons, whatever their past and present nationality, currently resident in Canada and allegedly responsible for crimes against peace, war crimes or crimes against humanity related to the activities of Nazi Germany and committed between 1 September 1939 and 9 May 1945, both dates inclusive.

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[20] *Hansard*, House of Commons Debates, 7 February 1985, vol. 128, p. 2113.

Chapter I-5

METHODOLOGY

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METHODOLOGY

1. Internal checks

In parallel with its mandate on the questions of law,[1] the first task of the Commission on the facts consisted in establishing a reliable list of suspects (if any there were).

The obvious source of information was the RCMP which, the Commission is glad to say, gave its full co-operation, especially through Commissioner Robert H. Simmonds, Superintendent John H. Brookmyre (Head of its Special Task Force), and Corporal (now Sergeant) Fred Yetter who has been involved in this matter for several years. Three hundred and thirty-five files were thus put at the disposition of the Commission.

Other substantial sources were:

Joseph Riwash	707 names	(supplied at random by Yad Vashem)
Simon Wiesenthal (Vienna)	219 names	
Canadian Jewish Congress (and Professor Irwin Cotler)	209 names	
Sol Littman	171 names	(plus the 2 previous lists and one list from Los Angeles)
B'nai Brith Canada (and David Matas)	100 names	
Department of Justice of Canada	81 names	
Simon Wiesenthal Center (Los Angeles)	63 names	
Canadian Holocaust Remembrance Association	54 names	

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[1] See below, c. I-7: "Legal Remedies".

Israel Police (M. Russek)	54 names	(also included in list of B'nai Brith)
Jewish Federation of North Jersey (R. Krieger)	49 names	
U.S.S.R.	43 names	
Ephraim Zuroff	29 names	

As could be expected, there was some more or less significant overlapping between those various lists of names.

The Commission also published a notice in 110 newspapers across the country calling for the co-operation of the public. This notice appeared in 68 English papers, 24 French papers and 18 ethnic papers. It brought in a small number of responses.

It is not appropriate to publish the names of the other bodies or individuals who also contributed to the work of the Commission, but the names of all the sources of information which supplied to the Commission its raw material appear in Part II of this Report, which the Commission is submitting to the Governor General in Council under the seal of confidence.

The Commission could thus build its Master List of suspected war criminals allegedly resident in Canada: it is included in Part II of this Report as Appendix II-E and contains 774 names. For the protection of reputations, the Commission has made it a duty not to divulge any of those names and has enjoined parties appearing before it in public sittings to adhere to the same policy. The Commission has received general understanding and co-operation in this respect, though Mr. Sol Littman came very close to breaching this injunction when he gave a press conference in Ottawa and distributed a list of suspects on 30 October 1986.

Even while it was compiling its Master List, the Commission realized that it must conduct investigations on all individuals whose names would appear on it in order to determine if there was any record of these individuals having entered Canada, and in the affirmative, whether they were still living in the country. To that end, the Commission needed a team of investigators who would work hand-in-hand with all its seven senior and junior counsel.

The Commission's investigation unit was therefore formed early in 1985, with the hiring of a director of investigations and two other experienced investigators. It soon appeared that the work load was such that two additional investigators had to be added to the unit.

The director and the four investigators were high ranking policemen retired from municipal, provincial and federal police forces, with additional experience in other investigative fields, totalling some 175 years of experience. This wide experience stood the Commission in good stead in establishing the necessary liaison with various police forces across the land. Also there soon grew a strong co-operation and mutual respect between counsel and investigators, which were indeed essential to the success of their work.

Having settled on that common goal, the Commission forwarded, with one exception, the names of all its Master List suspects to the Department of Employment and Immigration with a request that the department advise if it had any record of landing in Canada. The exception was a list of thirty names which were not pursued because the very nature of the allegation was so insubstantial that any follow-up was inappropriate: e.g., individuals too young to have participated in the war, instances where the cause of suspicion was limited to the suspect's appearance, ethnic background, etc.

With regard to immigration data, prior to 1952 the only permanent record maintained in Canada of an individual's landing in this country was a ship's manifest. This document was not signed by the immigrant, and the greater part of its contents is of no relevance to the work of the Commission.

After 1952, the ship's manifest was replaced by a Canadian Immigration Card (known as Form IMM1000) which, for the first time, required the individual's exact date of birth as well as a statement whether he had ever been convicted of a criminal offence, and which was signed by the immigrant.

As is being noted elsewhere in this Report,[2] only the ship's manifest and Canadian Immigration Cards were microfilmed and permanently recorded. All other documentary evidence in connection with an individual's application for and entry into Canada was lawfully permitted to be, and usually was in fact, routinely destroyed a very few years after landing in Canada.

The Commission simultaneously conducted investigations with the Department of the Secretary of State for possible applications for citizenship and with the Department of External Affairs for possible passport applications.

Citizenship applications included the individual's place and date of birth, name on entry into Canada together with details of the date and place of entry into Canada. On more than one occasion the Commission received negative replies from Immigration, only to receive positive responses from Citizenship. These multiple lines of investigation were thus occasionally successful in locating individuals who might otherwise have been presumed not to be in Canada.

It should be noted that the information requested in a citizenship application did not include information as to an individual's activities during the war. It did, however, include a photograph and signature of the applicant, which was quite frequently the earliest picture of that individual available to the Commission. These pictures proved useful in having witnesses identify the individual, as they were usually taken within a decade or so of the end of the war.

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[2] See below, c. I-7: "Legal Remedies."

Passport applications included more recent addresses and photographs of the individual and were thus of greatest assistance to the Commission's investigators in locating the person. As well, they included citizenship particulars, and in instances where Citizenship had provided a negative response and Passport a positive one, this double check assisted the Commission in obtaining the citizenship record.

The above three checks were conducted on every individual on the Master List, save the previously-noted exception. There were, as might be expected, a number of supplementary checks tailored to suit each individual.

For example, in cases where there was any suggestion that the individual had landed in Canada and had been destined for a particular province, the Commission's investigators conducted provincial motor vehicle searches. If a city was named, local telephone companies were checked as were street directories. In addition, if the age of the suspect suggested he might be dead, a provincial check was made with Vital Statistics. Finally, where it was felt appropriate, Canadian Police Information Centre (CPIC) checks were run.

All of these investigations individually had drawbacks: an individual might not have applied for citizenship (although the Commission found this to be rare) or for a passport; he might, because of age or other reasons, not have received a driver's licence within the last five years; he might not have a criminal record; a telephone might not be in his name, etc. However, it was felt that these checks represented a sufficiently broad line of investigation into the fabric of an individual's life that if he were in Canada, it would be unlikely that all checks would be negative.

Of course, when interviewing witnesses, it was essential to ensure that the right suspect was identified. In that respect, the transliteration of names from the Cyrillic to the Roman alphabet presented the Commission with serious difficulties, and oftentimes rendered identification problematic. The Commission's investigators using, among other tools, old and recent photographs, spent considerable effort to assure a proper identification.

Several of the suspects located by the investigation unit were subsequently subpoenaed and appeared before the Commission at *in-camera* hearings where their identity was indeed confirmed.

In the course of time, two other lists came to be added to the main Master List.

First, because of its fixed reporting date, the Commission could not continue its research efforts indefinitely. Yet, names of suspects continued to be drawn to the Commission's attention during the whole course of its mandate. The Commission kept on investigating until the end of October 1986; but it did not incorporate into its Master List the 31 additional names which had been belatedly brought to its attention nor could it, obviously, complete its work on them.

Furthermore, on 27 October 1986, the Commission was handed over two new lists from the Simon Wiesenthal Center of Los Angeles, through its Washington, D.C. counsel, Mr. Martin Mendelsohn. One list of 26 names was supposed to bring new suspects to the knowledge of the Commission. The other list of 37 names was expected to be known to the Commission, but might contain new information. It was found that, out of those 63 names, 56 already appeared on the Commission's Master List. The remaining seven, all contained in the list of 26, were added to the list of late arrivals which thus grew to 38 names.

On 30 October 1986, Mr. Sol Littman delivered to the Commission another list of 26 suspects; but it was simply a copy of the list of 26 mentioned in the preceding paragraph.

The list of those 38 additional names which came to be known within the Commission as its *Addendum*, together with its list of sources, appears in Part II of the Report as Appendix II-F, and the number opposite each name is identified by the letter A: A-01, A-02, etc. The Commission's findings and recommendations concerning those 38 names form a separate section in chapter I-8.

In the course of time, the Commission was apprised of operation "Matchbox" aimed at securing for the Allies the greatest number of top-notch German scientists. The operation presented a serious security problem inasmuch as those scientists might well have been involved in the Nazi war effort. Fresh in everybody's mind must then have been the discussions which would eventually lead to the trial at Nürnberg of the I.G. Farben directors.[3]

The Government of Canada became involved in the operation and insisted upon "the most careful security screening before the individual cases are finally approved".[4] The admission of selected German scientists and technicians and details of their employment were settled by Order-in-Council P.C. 2047, on 29 May 1947.

The security screenings were conducted by two distinct panels established by the British Board of Trade. The DARWIN panel was assigned the responsibility of recruiting and screening of scientists for industry while the other panel, under the Deputy Chiefs of Staff Committee, dealt with scientists destined for military research. In both situations the panel was to verify if the applicant was a member of the Nazi Party and whether he was sufficiently qualified to contribute something worthwhile in his field of endeavour in the host country.

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[3] Judgment rendered on 29 July 1948.

[4] Letter from A.L. Jolliffe, Director of Immigration, to A.D.P. Heeney, Clerk of the Privy Council, 9 November 1946.

A memorandum dated 6 January 1947, from Parsons, RCMP, to Jolliffe, Immigration, stated that the RCMP found the method used for screening "quite suitable for [its] requirements". It may, therefore, be safely assumed that a candidate having engaged in war crimes would have been rejected by the panel examining him and consequently would not have gained admission to Canada. Similarly, a pro-Nazi would have been rejected.

The Commission has learned that 71 German scientists and technicians were considered for admission to Canada. The list is reproduced in Part II of this Report as Appendix II-G. Each name is identified by a number preceded by the letter S: S-01, S-02, etc.

In connection with this particular group, the Commission tapped the Public Archives, which produced a wealth of information. The Commission also conducted searches with the departments of Employment and Immigration and External Affairs, Passport Division. Verifications were also made with the United Nations War Crimes Commission records in New York City, but due to the lack of identifiers, barely any part of the flimsy information can be used.[5] The records in question contain no date or place of birth and describe in general terms only the occupations and occasionally the crimes of which the subject is suspected. The few possibilities do not apply to those scientists and technicians found living in Canada.

The Commission's findings concerning the 71 names of German scientists and technicians form a separate section in chapter I-8.

2. Privacy and access to information

One check that was not available, but which would have been of considerable relevance in locating individuals, was information relating to whether an individual was receiving or had ever received old age security payments. Because over 40 years have passed since the conclusion of World War II, a large number of those individuals engaged in that conflict are now 65 years of age or older. Alleged war criminals of that age residing in Canada may in appropriate circumstances be eligible to receive old age pensions under the *Old Age Security Act*.[6] Clearly, the knowledge that an individual alleged to be a war criminal resident in Canada receives such a pension or that he ceased to receive it on a certain date would have been of great assistance to the Commission in attempting to locate the individual or ascertain that he had died. In addition, it would have been, in almost all cases, more recent information than landing records and citizenship or passport applications.

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[5] This question will be examined in more detail in section 3 of this chapter, dealing with external checks.

[6] 1970 R.S.C., c. 0-6.

When it was created, the Commission was "authorized to have complete access to personnel and all relevant papers, documents, vouchers, records and books of any kind in the possession of departments and agencies of the Government of Canada...".

On 4 April 1985,[7] the Commission was appointed an "investigative body" for the purposes of ss. 8.(2)(e) of the *Privacy Act*.[8] It was thus empowered to have access to "personal information under the control of a government institution"; this last phrase includes the Department of National Health and Welfare.[9]

On 4 July 1985, the Commission submitted to the latter department a request for information concerning an individual suspect. The information was supplied on 6 September 1985 by counsel for the Department of Justice.

On 8 October 1985, the Commission submitted to the Department of National Health and Welfare a further request concerning several suspects. The request was denied on 8 November 1985 by counsel for the Department of Justice. The refusal to supply the information was founded on s. 19 (1) of the *Old Age Security Act* which precludes the disclosing of "all information with respect to any individual applicant or beneficiary, obtained by an officer or employee of Her Majesty in the course of the administration of this Act...".

It must be recalled that ss. 8(2) of the *Privacy Act* permits the disclosure of personal information "subject to any other Act of Parliament".

The Commission filed a complaint with the Privacy Commissioner who dismissed it on 30 May 1986 (Appendix I-S), essentially on the following grounds:

a) the *Privacy Act* is not an access to information statute;

b) the *Privacy Act* enables, but does not require, disclosure;

c) the authority to disclose is subject to limitations found in other Acts of Parliament;

d) s. 19 of the *Old Age Security Act* appears to impose such limitations;

e) a dispute concerning the interpretation of s. 19 might more appropriately be resolved by a court of law.

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[7] Order-in-Council P.C. 1985-1206, Appendix I-L.

[8] 1980-81-82-83 S.C., c. 111, Schedule II.

[9] *Ibid.*, s. 3 and Schedule.

The *Privacy Act* did not appear to open to the Commission any avenue for judicial review of this decision.

The Commission has considered the possibility of resorting to the *Access to Information Act*.[10] Indeed, s. 4 provides for access "notwithstanding any other Act of Parliament". Two preliminary hurdles must, however, be overcome:

1) Under s. 19, the information sought by the Commission must not be "personal information as defined in section 3 of the *Privacy Act*". In the view of the Commission, upon a careful reading of the definition, a convincing argument can be made that no valid objection may be founded on that provision.

2) However, under s. 24 of the Act, disclosure is prohibited if it "is restricted by or pursuant to any provision set out in Schedule II". Now, this Schedule refers specifically to s. 19 of the *Old Age Security Act*. It should be expected that, upon a request made by the Commission under the *Access to Information Act*, the Justice department would give the same advice as it did under the *Privacy Act* concerning the effect of s. 19 of the *Old Age Security Act* and refuse to disclose the information.

The second hurdle would then have meant a complaint to the Information Commissioner, followed, in case of dismissal, by judicial review before the Trial Division of the Federal Court of Canada.

The Commission decided that there was no purpose in following the route of the *Access to Information Act* for two reasons:

1) The delays involved were inordinate and the process totally impractical, since the Commission was (at that time) requested to report by 30 September 1986;

2) The result was uncertain. It depended essentially on the construction of the word "obtained" in s. 19 of the *Old Age Security Act*, to wit: is the information sought by the Commission "information obtained by the government in the course of the administration of the Act" and, as such, privileged? or is it not rather "information generated on the basis of information collected pursuant to the administration of the Act" and thus amenable to disclosure, as Justice counsel wrote to the Commission on 6 September 1985?

At any rate, all those difficulties and uncertainties should not hamper the administration of justice. Yet, they have contributed to increasing the workload of the Commission in trying to trace the suspects in this country, as they had rendered more difficult the investigation of the RCMP to which similar information was refused while it was looking ten years ago for Albert Helmut Rauca, a war criminal who had found refuge in Canada in 1950 and was actually receiving benefits from the Department of Health and Welfare.

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[10] 1980-81-82-83 S.C., c. 111, Schedule I. See below, c. I-8.

The Commission accordingly *RECOMMENDS* that:

5- **In order not to thwart lawful investigations by commissions of inquiry or the RCMP or investigative bodies specified in the regulations pursuant to ss. 8(2)(e) of the *Privacy Act* (1980-81-82-83, S.C. c. 111, Schedule II):**

   a) **the mention of s. 19 of the *Old Age Security Act* (1970 R.S.C., c. 0-6) should be deleted from Schedule II to the *Access to Information Act* (1980-81-82-83 S.C. c. 111, Schedule I);**

   b) **s. 19 of the *Old Age Security Act* should be amended by adding to the exceptions listed in ss. 19(2)(a): commissions of inquiry, the RCMP and the above-mentioned investigative bodies;**

   c) **ss. 19(2) of the *Old Age Security Act* should be further amended in order to make compulsory, rather than discretionary, the disclosure of information requested in the discharge of their duties by the bodies enumerated in this recommendation.**

3. External checks

The Commission also conducted a series of external checks with foreign sources. Whereas the internal checks had been directed at locating the individual, the external checks were concerned with the allegations made against the individual.

The fundamental check that was made on virtually every name on the Master List was with the Berlin Document Center (BDC), which houses roughly 30 million documents. These include all documents relating to membership in the Nazi Party, records of Nazi Party courts, various levels of information on an individual's involvement in the Waffen-SS and documents relating to the implementation of certain government policies such as the naturalization of the *Volksdeutsche* who were resident in areas that are now part of the East bloc. The only names not checked with BDC were those of individuals whom the Commission knew had died or on whom all internal checks had produced no evidence of entry into Canada prior to sending the request to BDC.

Another basic check was made with the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany. This office was organized in 1958 and investigates Nazi war crimes exclusively.

Under German law, before charges relating to Nazi war crimes can be laid, it must be determined that Germany is either, a) the place of the crime; b) the place of arrest of the suspect; or c) the country of origin of the suspect.

It is the function of Ludwigsburg to establish whether or not any of these conditions has been met. If a prosecution is warranted, it is handled by the relevant prosecutor's office, but Ludwigsburg is provided with copies of all relevant legal documents for its central registry. Ludwigsburg is, therefore, a source of information as to all individuals against whom such proceedings have been initiated in West Germany and will also have information as to individuals whose names are mentioned or who appear as witnesses in the course of such proceedings.

The remaining external checks were restricted to individuals that the Commission believed were in Canada. They included, among others which are referred to below, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin; the Berlin Sick Book Depository; and the Central Information Office of the Federal Archives (at Aachen-Kornelimünster).

WASt was established in 1939 shortly before the outbreak of the war as a data centre as defined by art. 77 of the *Geneva Convention* on the treatment of prisoners of war. Its purpose was to collect and disseminate information pertaining both to prisoners of war captured by Germany and to members of the Wehrmacht who were either killed, wounded or missing in action or prisoners of war themselves. Over the years the records housed by WASt have grown to include certain Waffen-SS, Police, Navy and Reich Labour Service documentation, encompassing today more than 400 million documents.

The Berlin Sick Book Depository contains the documentation pertaining to the sick and wounded of both world wars and is of particular use in establishing that an individual was in a particular place at a particular time. A negative response can mean either that the person was not involved in the war or that the person was not wounded or ill.

The archives at Aachen-Kornelimünster handle matters related to the personnel files of civilian employees of the Wehrmacht, the Waffen-SS and the Reich Labour Service. Its main function is to provide information on military service.

These external investigations are universally regarded as an essential first step in any investigation of an individual suspected of war crimes. Occasionally they produce clear evidence supporting allegations of the commission of war crimes, for example, awards granted for killing a predetermined quota of Jews. More frequently however, they serve other purposes. They may tend to exonerate an individual in instances such as those in which the accusation bears on atrocities committed as a member of the SS, whereas all records indicate that the individual was never a member of that organization. Alternatively, positive responses may cumulatively provide information as to an individual's whereabouts, unit and rank, all of which may be of assistance in attempting to locate potential witnesses and in determining the likelihood that the individual might have been in an area or unit at a time that war crimes were being committed. This information may then be pursued further to obtain more specific evidence of criminality.

In addition to the foregoing external checks, there were other resources utilized by the Commission on a case-by-case basis where the origin or nature of the allegation warranted it. Thus, the Commission tapped several other foreign sources of information. They are listed in Appendix I-K and equally deserve the gratitude of the Commission for their unselfish and useful co-operation. More particularly, the Commission forwarded specific names on its Master List and in some cases specific questions to *Centre de documentation juive contemporaine* in Paris, the Office of Special Investigations (OSI) in Washington, D.C., the Wiesenthal Documentation Center in Vienna, and the Yad Vashem archives in Israel, as well as to the appropriate departments or agencies of several Eastern and Western governments. Leaving aside the latter, a word on the former appears apposite.

The *Centre de documentation juive contemporaine* is a French Jewish organization which was clandestinely set up in Grenoble in 1943 during the German occupation, in order to collect documentation on the Holocaust. In 1944, after the liberation of France, the CDJC was transferred to Paris and since 1956 has been located at 17 rue Geoffroy-Lasnier in the building housing the memorial to the Unknown Jewish Martyr. The CDJC has numerous collections of documents from the French Gestapo, the German embassy in Paris, the German Supreme Military Command in France and the French *Commissariat Général aux Questions Juives*. It also possesses vast collections of documents gathered by the Allied authorities in Nürnberg, proceedings of the trials of Nazi war criminals in France, Germany and elsewhere, and collections of photographs.

The CDJC concerns itself with topical matters connected with the Nazi period such as the fight against racism, the punishment of war criminals and the compensation of victims by the German Federal Republic.

The Office of Special Investigations (OSI) in Washington was established in 1979, as a unit within the Criminal Division of the United States Department of Justice. Its mandate was to locate Nazi war criminals in the United States, and also to institute prosecutorial proceedings against such individuals where appropriate. Because of its broader mandate and accumulated years of practical experience, the OSI was a valuable source of historical information in addition to providing information on specific individuals having some American connection during or after the war. Of particular value to authorities who might contemplate initiating proceedings against individuals resident in Canada was a series of step-by-step model investigations in the following subject areas: Latvia, Lithuania, Estonia, Slovak Hlinka Guard, Hungary, Romania, Yugoslavia, Poland, Ukrainian Police, Schutzmannschaft (Ukrainian), Einsatzgruppen, concentration camp and SS lists.

The Wiesenthal Documentation Center was generally a source of names of individuals alleged to be war criminals. As a rule, the Center provided little more than an individual's name, rank, place and date of birth together with the generalized allegation of war crimes such as being a member of the Galicia Division of the Ukrainian Waffen-SS. Occasionally, the Center provided an address in Canada of an individual having a name similar to that of a suspected war criminal. Generally, however, it must be stated that the Center's information was long on allegations and generalities, and short on evidence and specifics.

The Yad Vashem archives are located in Jerusalem. While they consist largely of copies of materials available elsewhere, they can be valuable as a source of survivor testimony, specifically Polish survivors.

In order to pursue those external checks efficiently, it became necessary to establish personal contact with the above-mentioned and other foreign agencies. Thus, the following working meetings were organized:

In 1985

20 May	Commission counsel at the Dutch Ministry of Justice, The Hague.
22-23 May	Commission counsel at the British Ministry of Defence and British Public Records Office, London and Surrey.
7-8 July	Commissioner, Commission counsel and Secretary at Office of Special Investigations, Washington.
23 July	Commissioner at Berlin Document Center.
18 August	Commissioner at High Commissioner for Refugees, Geneva.
2 September	Commission counsel at Dutch Ministry of Justice, The Hague.
30 September 1 October	Commission junior counsel and Commission historian at OSI, Washington.
1 November	Commission counsel to meet Mr. Simon Wiesenthal and Mr. Ralph Blumenthal, New York.
22 November	Commission counsel at *Centre de documentation juive contemporaine*, Paris.

In 1986

18 April 4 May	Commission junior counsel and Commission historian visit five archival depositories in Germany.

Those working sessions were organized, for the most part, in the context of trips undertaken for other purposes. They proved extremely beneficial to the Commission both on a short, and a long-range basis.

In the meantime, suitable arrangements with the U.S.S.R. and Poland, though discussed with their respective authorities, could not be completed for reasons which will be fully explained below.[11]

It should also be noted that, relatively early in the course of its deliberations as to what foreign checks would be relevant and appropriate, the Commission made a conscious decision that, with one exception, it would not forward names on its Master List to any East European countries. The reason for this was the Commission's concern that, for ideological or political reasons, the recipient country might wish to publicize the names of those individuals and attempt to create the impression that the Commission or the Government of Canada had somehow conceded that these individuals were war criminals and not simply names of individuals being investigated. The other consideration was the well-being of relatives of these individuals who are still residing in the Eastern bloc countries.

This was a particularly difficult decision to take, because a substantial number of individuals on the Master List were alleged to have committed the crimes of which they were accused in areas that subsequently came to be part of the Eastern bloc. However, the Commission felt that the potential risks in disclosure of names outweighed the possible evidence that might be forthcoming.

As noted, however, there was one exception. In cases where an East European country had formally advised Canada that an alleged war criminal from that country was resident in Canada, the Commission concluded that its concerns about publication of the individual's name and well-being of relatives were unwarranted. Examples of such cases included correspondence from the Embassy of the U.S.S.R. to the departments of the Solicitor General and of External Affairs dated 1 April 1980 and 15 July 1985 respectively, in which specific allegations against named individuals were set out. In instances such as these, the Commission did correspond with the appropriate East European government, but only in respect of those individuals and only to request oral or documentary evidence in support of the allegations involved.

In light of the recommendations of the Commission with respect to several individuals on the Master List, the Government of Canada may wish to review this decision not to consult with East European authorities other than to the limited extent noted above.

A final source of information consisted of the CROWCASS[12] and UNWCC[13] lists (exhibit P-95). The CROWCASS lists were the product of joint American, British and French efforts to identify and locate security suspects and war criminals among Axis prisoners of war in Allied detention centres. (The "security suspect" category was soon dropped as it became apparent that "none of these persons was wanted by any specific nation for any specific war crimes").[14] The UNWCC lists were to serve the wider purpose of assisting member governments in apprehending all war criminals, regardless of their postwar whereabouts. Both sets of lists were drawn up between 1944 and 1948 and distributed, amongst others, to the Canadian government. Here they appear to have served a single purpose: finding whether any of the names might figure on the list of our own prisoners of war. Otherwise, according to the Secretary of State for External Affairs, ". . . it is not the practice to distribute them to any other Canadian authorities."[15] These lists could not, therefore, be used by immigration officers or visa control officers to prevent the entry of war criminals into Canada.

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[11] See below, c. I-8.

[12] CROWCASS stands for Central Registry of War Criminals and Security Suspects.

[13] UNWCC stands for United Nations War Crimes Commission.

Forty years later, an effort at clarifying the situation was made by the Commission through a comparison between these lists and the Commission's Master List. Unfortunately, not all lists appear to have been received by Canada: at least not all of them have been traced in the Public Archives. CROWCASS would have issued 20 wanted lists and 20 detention lists.[16] UNWCC would have issued 80 lists.[17] Yet, according to Mr. R.G. Hayward,[18] less than half that number could be found and were made available to the Commission (5,800 pages in all):[19] they are the following:

CROWCASS

- Wanted List Part I
- Wanted List Part II
- Wanted Lists 4, 5, 6, 9, 10, 11
- Detention Lists 1, 2, 3, 4, 5, 6, 8

UNWCC

- Wanted List 27
- Lists IX, X
- Lists 1 to 27
- Lists 31 to 37
- List 40

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[14] United Nations War Crimes Commission, *History of the United Nations War Crimes Commission and the Development of the Laws of War*. His Majesty's Stationery Office, London, 1948, p. 378.

[15] Letter from Secretary of State for External Affairs to Acting High Commissioner for Canada, London, 9 September 1946: exhibit P-94.

[16] Karwandy, evidence, vol. II, p. 134.

[17] Hayward, evidence, vol. II, p. 199.

[18] Evidence, vol. XVIII, p. 2321; letter 9 July 1985, exhibit P-94.

[19] Evidence, vol. XVIII, p. 2324.

Of course, the Commission was not satisfied with this situation. It, nonetheless, began with a comparison between the available lists and its own Master List. This effort produced a short list of 55 names where there appeared the possibility of additional information. Later, the Commission obtained the five lists missing from the first 40 UNWCC lists, as well as the last 40 lists issued by the same authority. The Commission thus came into possession of a full set of all UNWCC lists.

At the same time, however, the Commission received the distressing information that the CROWCASS lists could lead nowhere: there exist no independent archives or files corresponding to the names appearing on these particular lists.

Working first on its short list of 55 names, the Commission sent representatives to the United Nations archives located in New York City to examine the corresponding case files held there in the archives of the United Nations War Crimes Commission.

The UNWCC holdings consist of the 80 lists already mentioned, an alphabetical, consolidated card file of some 40,000 names, as well as about 8,000 case files. Each card contains the name of either an accused war criminal against whom a *prima facie* case could be made ("A" classification), a suspected war criminal ("S" classification) or an Axis national who may have been a witness to specific war crimes ("W" classification). The case files from which the names have been culled often contain allegations against a number of individuals based on a single incident. They were compiled by the national war crimes offices of member countries of the UNWCC. The majority relate to instances of military brutality in France, Belgium and the Netherlands, although some files contain charges against the staffs of concentration camps in Germany and present-day Poland. Allegations range from stealing trucks to mass murder.

Poland, Czechoslovakia and Yugoslavia were UNWCC members, and their charges are also included in the files. The Soviet Union was not a member. Thus there are essentially no UN files concerning Russians, Ukrainians or Balts, who yet account for a substantial proportion of the Commission's Master List.

The utilization of UNWCC files in the work of the Commission raises several problems. Foremost among these is the fact that the data bases upon which the UNWCC lists and the Commission's Master List have been formed are virtually mutually exclusive. While our information in non-Soviet cases usually consists of a name, a vague allegation (e.g., "speaks German", "SS member") and a range of vital statistics from Canadian sources, the UNWCC files provide a name (often only a surname), a fairly precise description of the alleged war crime and, as a rule, no vital statistics.

An example, hypothetical but concrete, will illustrate the difficulty. Let us assume that one Hans Schmidt — the German counterpart of the classical

John Smith — has been denounced to the Commission as having "fought for Hitler". The Commission obtains all the available information about his immigration to and life in Canada. The UNWCC files may provide one or two Hans Schmidts, without dates or places of birth, as well as over 400 allegations against a "Schmidt", with no given names mentioned. The investigator is left with no reasonable criteria for choosing between these 400-plus allegations. Any one of them could conceivably be "our" Schmidt.

Faced with this dilemma, the Commission checked its short list as a sampling. Of those 55 names, only five UNWCC files could be said with any degree of certainty to be identical with the Commission's own subjects. These were files on subjects of Dutch origin and, generally speaking, they contained no new information.

Thus, judging by this sampling, even if the Commission were to avoid the extraneous intermediary step of checking the Master List against the remaining 45 lists it has since gathered from the archives, and were to work directly with the UNWCC card file, the results would likely be minimal at best.

In order to have exhausted every potential for information, no matter how slight, the Commission would have had to have:

1. checked the Master List against the UNWCC card index in New York City. (During their development, the CROWCASS and UN listings came to be correlated to the extent of approximately 90 per cent. Step 2 would cover the remaining 10 per cent.)
2. checked the Master List against the consolidated CROWCASS list of names.

This situation raised serious questions involving human and financial resources which were not limitless. The Commission must then consider the following elements:

a) the largely unrelated data bases;

b) the meagre results brought by the checking of a first series of 55 names, though these showed the closest connection with the various lists;

c) the absence of files corresponding, in any event, to the CROWCASS lists;

d) the large expense involved, since it had taken five-and-a-half working days in New York to check 55 names;

e) the time constraints imposed on the Commission.

In light of those circumstances and of the necessity of bringing the work of the Commission to a close within a reasonable time, the Commission concluded that it had no other alternative than not to pursue the search through

UNWCC beyond the steps it had already taken. The results actually acquired are reflected, as a matter of fact, in several of the individual reports which appear in chapter I-8: the reader will usually find them negative, or too vague by way of identification to be really useful.

But outside of those internal and external checks, special attention had to be given at the outset to the case of Dr. Josef Mengele. This will be the topic of our next chapter.

Chapter I-6

THE MENGELE AFFAIR

Chapter I-6

THE MENGELE AFFAIR

The opening paragraph of Minute-of-Council 1985-348 states:

> WHEREAS concern has been expressed about the possibility that Joseph Mengele, an alleged Nazi war criminal, may have entered or attempted to enter Canada;

Two weeks before the passage of this Minute there had indeed been a public outcry following the publication on 23 January 1985 of an article over the signature of "Ralph Blumenthal, the *New York Times*".[1] The article was captioned: "Records indicate Mengele sought Canadian visa". The third paragraph read:

> Other records indicate that Mengele applied to the Canadian Embassy in Buenos Aires for a Canadian visa in 1962 under a pseudonym and that the Canadians informed American intelligence officials of the attempt.

One month earlier Mr. Sol Littman, Canadian representative of the Simon Wiesenthal Center, had written to the Prime Minister of Canada a letter where he unequivocally affirmed:[2]

> The documents we received on Mengele, who has been the object of world-wide search since the close of WW II, produced two shocking pieces of information.
>
> (. . .)
>
> 2) Mengele, employing the alias of Dr. Joseph Menke, applied to the Canadian embassy in Buenos Aires for admission to Canada as a landed immigrant in late May or early June, 1962.

The relation between Littman's letter and Blumenthal's article is established. In the course of an interview with Commission counsel in New York, Blumenthal stated "that it was Mr. Sol Littman to whom he had been directed by the Simon Wiesenthal Center in Los Angeles, who introduced the element of an application by Mengele to come to Canada from Buenos Aires".[3]

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[1] Corporal W. F. Yetter, of the RCMP, testified that this article had been published in the *Ottawa Citizen* (evidence, vol. V, pp. 531-532). The photostat copy, which has been produced as exhibit P-22, does indeed bear a handwritten note to that effect. Yet the signature over the article: "by Ralph Blumenthal — the *New York Times*", and its stated origin: "New York" render the attribution of this article to an Ottawa newspaper doubtful. Be that as it may, however, "there were several articles in the media at that time" (*ibid.*) and their combined effect was obvious.

[2] Exhibit P-154, 20 December 1984.

Littman confirmed: "I am reasonably sure that most of the information that Mr. Blumenthal printed came directly from me."[4]

In his testimony before the Commission in December 1985, Littman conceded his paternity of the assertion of facts concerning Mengele:[5]

> Q. I see. Let us just take a look for a moment, if we may, at your letter of December the 29th, Exhibit 154. In that letter, sir, you assert as a fact that Mengele, employing the alias of Dr. Josef Menke, applied to the Canadian Embassy in Buenos Aires for admission to Canada as landed immigrant.
>
> Now, I ask you, sir, whether or not — whether that assertion of fact, did it come from the documents, did it come from the Immigration Officer or did it come from Corporal Yetter?
>
> A. The assertion of fact, Mr. Whitehall, is mine.
>
> Q. The assertion of fact is yours?
>
> A. Yes.

And to describe the basis of his assertion of facts, Littman could find no better words than "speculation";[6] "impression";[7] "possibility";[8] and "hypotheses".[9]

The Commission could not, of course, foresee that turn of events, and it devoted some substantial time inquiring into the Mengele affair. It will now report in an effort to put this matter finally to rest.

* * *

Doctor Josef[10] Mengele, the infamous "Angel of Death" of Auschwitz, was born in Günzburg, Germany on 16 March 1911. A member of state youth organizations from the age of 13, he joined the SA at the age of 22. He became a medical doctor and was admitted into the SS in 1938 where he rose to the rank of captain in 1943. The same year he was assigned to the concentration camp of Auschwitz where he conducted the cruel experiments which history has recorded. After the war he reportedly fled to South America where, at the moment of writing, his fate remains shrouded in mystery. According, however, to certain accounts, he would have drowned in Brazil in 1979.[11]

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[3] Evidence, vol. XXIII, p. 3293.
[4] Evidence, vol. XXIII, p. 3298.
[5] Evidence, vol. XXIV, p. 3361.
[6] Evidence, vol. XXIII, p. 3305; vol. XXIV, p. 3363.
[7] Evidence, vol. XXIII, pp. 3315-3316.
[8] Evidence, vol. XXIV, p. 3363.
[9] Evidence, vol. XXIII, p. 3316.
[10] This is the spelling of Mengele's own signature: see exhibit P-149.

The only question for the Commission is that posed in the Minute-of-Council: did Mengele enter or attempt to enter Canada?

It seems that the question arose for the first time in 1962. Unfortunately, the destruction of some of the government and police files in the long period which followed robs any inquiry of the possibility of achieving absolute certainty. There remains, however, a wealth of elements which should permit the Commission to reach a conclusion "beyond a reasonable doubt".

The Commission proposes to examine the two problems in order: Did Mengele *enter* Canada? Did he *attempt* to enter Canada?

1 – *Did Mengele enter Canada*?

Like a pyramid standing unsteadily on its apex, the whole story developed out of a tip given to the Ontario Provincial Police (OPP) in January 1962 by an informant whose identity, concealed at the time, appears to have been lost. According to this informant, one Menke, living in Southern Ontario, was no other than Dr. Josef Mengele.

The OPP passed the information over to the Royal Canadian Mounted Police (RCMP) which, in turn, sought instructions from the departments of Justice and of External Affairs. This triggered inquiries in Europe: England, the Netherlands, Germany as well as contacts with the U.S. armed forces which could produce documents out of the Berlin Document Center. The sum total of this investigation was negative.

Since then, and according to standard procedure, the file of the RCMP has been destroyed. Fortunately, however, the Justice department had kept copies of several RCMP reports which contribute substantially to re-constitute the sequence of events.[12]

The Commission had been told that the OPP file had also been destroyed. Further inquiries, however, led to the discovery that the OPP file was still in existence, and it was produced as exhibit P-143.

Several federal and provincial police officers were also traced, as well as additional documents, so that the whole picture can now be quite satisfactorily rebuilt. The Commission proposes to deal with this matter in light of the various aliases known to have been used by Mengele.

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[11] William G. Eckert, M.D. and Wilmes R.G. Teixeira, M.D., Ph.D., "The identification of Josef Mengele — a triumph of international cooperation", in: *The American Journal of Forensic Medicine and Pathology*, September 1985, p. 188. Also a further report on new dental evidence, dated 26 March 1986, by Dr. Lowell J. Levine and Dr. Carlos F. Valerio.

[12] Exhibit C-25.

The following eight aliases are attributed to Mengele (they are numbered for convenience only):

1) Helmut Gregor
2) Helmut Gregori
3) Helmut Gregorio
4) Dr. Fausto Rindon
5) S. Jose Alvares Astiazu
6) S. Jose Alvares Mengele
7) Joseph Menke
8) George Menk

The first six of the above aliases were supplied to the RCMP by Interpol-Wiesbaden.[13] Searches were made in the various government departments which would or might have been involved had Mengele entered Canada under his own name or any one of those six aliases; they failed to produce any positive results,[14] and it is now accepted that there is no point in pursuing the search in that direction.

There remain the two other aliases: Joseph Menke and George Menk. These came to the surface as a result of the information which, as indicated earlier, was supplied to the OPP in January 1962. Since both the OPP and the RCMP worked on this information, and questions have been raised about their action, it appears necessary to draw a picture of the events in their chronological order. For purposes of brevity, the Commission will use the following abbreviations:

DMJ:	Deputy Minister of Justice
External Affairs:	Under Secretary of State for External Affairs
USAREUR:	U.S. Army Europe — Central Registry
VCO:	Visa Control Officer

On the basis of the available evidence, events developed as follows:

1961		***Exhibit***
11 September:	Sale of a farm in Washington, County of Oxford, Ontario, halfway between Woodstock and Kitchener, by Fern E. Miller to George Menk.	P-145

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[13] Yetter, evidence, vol. V, p. 597.

[14] See evidence, *passim*, of Yetter (RCMP), Sabourin (Immigration), De Wolfe Lane (Secretary of State, Citizenship Branch), Black (External Affairs) and exhibit P-148.

1962

14 January:	Information given by a man (identity unknown) to OPP Constable J. McPherson that the German owner (since the fall of 1960, according to the informant) of a farm in Oxford County, by the name of Menk(e), looked very much like Dr. Joseph Mengele.	P-143
15 January:	McPherson reports to Graham, OPP Criminal Investigation Branch.	P-143
16 January:	OPP file opened under name "Joseph Menke".	P-143
	Graham reports to OPP Assistant Commissioner Franks. Franks reports to RCMP Superintendent Woods-Johnson.	
17 January:	Woods-Johnson acknowledges receipt to OPP.	P-143
9 February:	RCMP submits to DMJ draft request for information to External Affairs.	P-24
16 February:	DMJ asks RCMP: what steps to be taken if Mengele is a war criminal?	P-25
23 February:	RCMP to DMJ: will ask for information from OPP.	P-26
	RCMP to OPP: what have been Menke's activities in Germany?	P-143
28 February:	OPP (Toronto) to OPP (London): get information from McPherson.	P-143
6 March:	OPP McPherson sends three-page report stating, *inter alia*, that the relevant information on Mengele "must be on record and available to police forces on an international level".	P-143
7 March:	OPP report sent to Franks.	P-143
9 March:	OPP report sent to RCMP.	P-143
22 March:	RCMP sends OPP information to DMJ; suggests reference to External Affairs.	C-25

1962

10 April:	McPherson reports: informant getting impatient.	P-143
13 April:	RCMP requests from DMJ instructions from Justice and External Affairs.	C-28
16 April:	Franks sends to RCMP report of 10 April to OPP.	P-143
19 April:	RCMP to OPP: waiting for instructions from Justice.	P-143
27 April:	DMJ exposes to External Affairs steps to be taken.	C-28
18 May:	Sale of farm by George Menk to Ferber.	P-146
8 June:	RCMP to DMJ: requests instructions.	C-25
18 June:	Bailey (RCMP-Chief VCO-Cologne) asks USAREUR for information on Joseph Menke alias of Mengele.	P-23
26 June:	McCharen, of USAREUR, sends to Bailey file on Mengele.	P-152
3 July:	OPP reports: McPherson will do nothing.	P-143
10 July:	RCMP Webster and Blythe go to Woodstock, are shown the farm of the suspect by McPherson and find Menk gone to parts unknown.	P-143
?	Blythe locates Menk in Kitchener, Ontario.	P-143
13 July:	VCO (The Hague) writes to the Chief VCO in Köln (Bailey) that there is nothing to report in the Netherlands.	C-25
15 July:	McPherson recommends OPP file be closed.	P-143
20 July:	OPP file closed.	P-143
	Bailey reports to RCMP on various sources abroad.	C-25 & P-141
31 July:	RCMP report: title search on Menk's farm, etc.	C-25

1962

3 August:	RCMP report: Menk found in Kitchener.	C-25
7 August:	RCMP overall report.	C-25
16 August:	RCMP to DMJ: considerable doubt that Menk is Mengele.	C-25
5 September:	RCMP: identification of Menk by photographs of Mengele has been negative.	C-25
6 September:	RCMP report by Blythe.	C-25
11 September:	External Affairs to DMJ: apologizes for delay due to complexity of matter; maybe extradition should be considered.	C-28
12 September:	DMJ to RCMP: copy of above.	

A certain number of facts now emerge beyond dispute:

1) The suspect at whom the OPP informant pointed in January 1962 was George Menk; this is established by the two deeds of purchase and sale of the farm in Oxford County where the suspect was living;

2) The informant gave to the OPP only the name of *Menk*, for which OPP Constable McPherson wrote *Menke*;

3) Probably because the search was launched for an alias of Dr. *Joseph* Mengele, the OPP opened its file in Toronto under the name of *Joseph* Menke;

4) This is how *Joseph Menke* appeared first as an alias for Mengele and as the caption for both the OPP and the RCMP files;

5) *Joseph Menke* also appears as an alias for Mengele on an index card in the USAREUR file; but that card was typed on 3 July 1962: it is information not given to Canada, but coming from Canada, i.e., a result of Bailey's letter of 18 June 1962 (exhibit P-23);

6) The OPP file was closed on 20 July; however on 31 July the RCMP found the true name of the suspect through its title search; that is likely the reason why, as from its report of 7 August, the RCMP started using the caption *George Menk* instead of *Joseph Menke*;

7) As the OPP had been conscious from the outset of the possible international implications of the matter, so the RCMP also reacted and it repeatedly sought guidance and instructions from

> the departments of Justice and of External Affairs; this goes a long way to explain the delays in the RCMP investigation.

The evidence shows that the alias *Joseph Menke* was the result of compounded errors or assumptions; it is, therefore, on *George Menk* that this inquiry ought to focus.

George Menk had landed in Canada, at the Port of Québec, on 15 June 1958. He was 44 years old.[15]

Some physical features were common to Mengele and Menk:

- i) They were about the same age: Mengele was born in 1911, Menk in 1914;[16] in 1962 this difference may well not have shown materially;
- ii) They were about the same height: Mengele was 1.8 m,[17] (6 feet); Menk was 5 feet 10 inches to 6 feet.[18]
- iii) They both had brown or light brown hair (*ibid.*).

Furthermore both had a wife bearing the same name: Menk's wife was called Maria, Mengele's first wife was called Irene Maria.[19]

But there the similarities ended. The facts militating against the Menk — Mengele connection can be summarized as follows:

- i) Mengele was never shown to be a heavy man: he was "medium build".[20] Menk weighed around 200 lbs.[21]
- ii) The OPP's informant felt that there were, between Mengele and Menk, "points of similarity in appearance including the shape of their head and ears".[22]

  However, photographs of Mengele were shown to acquaintances of Menk: according to the RCMP officer in charge, Staff Sergeant Harvey Blythe, " [they] were of the opinion that he would not, in fact, be Mengele".[23]
- iii) By 1962, Mengele had a second wife and a stepson.[24]

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[15] Exhibit C-26.
[16] Exhibit C-26.
[17] Exhibit P-27.
[18] Exhibit C-25.
[19] For Mengele, see exhibit P-28; for Menk, see exhibit C-26.
[20] Exhibits P-27 and C-25.
[21] Exhibit C-25.
[22] Exhibit P-143.
[23] *Ibid.*
[24] See the book quoted in footnote 63, this chapter.

Menk was divorced and had a son and a daughter in Germany.[25]

iv) Samples of the signature of Mengele were obtained by the Commission from the Berlin Document Center.[26] Two samples of the signature of George Menk appear on the deed of sale of his farm.[27] Those signatures were compared by Mr. Gérard de la Durantaye, document examiner since 1952 and acting head of the document section of the Ontario Centre of Forensic Sciences. Mr. de la Durantaye is an acknowledged expert in the field of hand-writing, and his impressive qualifications have not been challenged, nor indeed his conclusions.[28] After comparing the signatures of Mengele and Menk (together with two others which are irrelevant here), Mr. de la Durantaye concluded: "The four groups of signatures on D1 to D4 differ from each other and no significant similarities have been found between them which would indicate that two or more of these groups of signatures were written by the same person".

v) Circumstantially, a most determining factor is the fact that, in 1962 alone, Menk made three trips to Germany:[29] it is unlikely that, had he been Mengele, he would have taken such risks.

vi) Finally — recalling the pyramid standing on its head — the OPP expressed doubt on the reliability of its informant after having found that "considerable information originally received from the Informant has been proven false".[30]

Incidentally, George Menk never became a Canadian citizen[31] and never applied for a passport (*ibid.*) On the basis of the available information, it appears that he did not return to Canada after his last departure for Germany in late 1962.

Regarding aliases numbers 7 and 8 (see above), the evidence therefore leads to the following conclusions:

a) *Joseph Menke* was merely the product of various errors or assumptions added one to the other and had no factual connection with Mengele;

b) *George Menk* was not an alias of Mengele, but was the name of a person different from Mengele.

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[25] Exhibits C-25 and C-26.
[26] Exhibit P-149.
[27] Exhibit P-146.
[28] Exhibit P-151.
[29] Exhibit C-25.
[30] Exhibit C-25.
[31] Exhibit P-148.

The story of Dr. Mengele and his eight aliases is a story no part of which ever took place in Canada; so much so that Mr. Irwin Cotler, counsel for the Canadian Jewish Congress, was moved to state before the Commission on 1 May 1985:[32]

> It [The Freedom of Information Act] also disclosed, which was not in the Canadian reports, that, in fact, there was no evidence in that Freedom of Information Act that he [Mengele] was, in fact, in Canada.
>
> . . . Secondly, when hearings were conducted afterwards in both the United States and in Jerusalem, on my own — I was not yet party to this Commission — I made inquiries and I was advised by those who were involved in those hearings that they had no information at that time that Mengele was in Canada.

On the whole, there exists therefore no compelling evidence that Dr. Josef Mengele ever entered Canada. On the contrary, the Commission *FINDS* without hesitation that:

6 – On the basis of the weight of the available evidence, it is established beyond a reasonable doubt that Dr. Joseph (Josef) Mengele has never entered Canada.

To this story must be added a footnote.

The name of Menke was treated as an alias of Dr. Mengele. In the course of time, however, it was uncovered that Joseph Menke was also a real person and, at that, a major in the SS forces. His record has been obtained from the Berlin Document Center and filed before the Commission as exhibit P-150.

On 25 March 1985 Mr. Sol Littman wrote to the Prime Minister of Canada (exhibit P-155). In his letter, Mr. Littman made the following assumption concerning Joseph Menke:

> It was this man, who outranked Mengele in the SS, who was apparently the real subject of the enquiry conducted by Canadian authorities in 1962.

This assumption led Mr. Littman to pose several questions concerning Menke, immigration and espionage.

The existence of this SS major was not known to the police investigators in 1962, and there are absolutely no grounds to link him to the inquiries which were then carried out either in Canada or abroad. Indeed, all police files dealt with Menke as an alias of Mengele (before the reality of George Menk was discovered) and Bailey, in Germany, referred to his information "that a man . . . using the name of Joseph Menke, may be identical to Josef Mengele."

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[32] Evidence, vol. V, p. 580.

An inquiry into Joseph Menke personally is, therefore, totally foreign to an inquiry into Dr. Josef Mengele. Yet it has been suggested as part of the general duties of this Commission.

The point can be summarily dealt with inasmuch as there is not a shadow of evidence that SS Major Josef Menke (as he wrote his name) ever came to Canada. The same inquiries concerning the first six aliases of Mengele were carried out on Joseph (Josef) Menke, with the same negative results.[33]

The evidence concerning Joseph Menke as an alias is, of course, of equal force concerning Joseph Menke as an individual person. Those results were confirmed in late November 1985 by the departments of Employment and Immigration, Secretary of State (Citizenship) and External Affairs (Passport).[34]

Furthermore, Joseph Menke was not disguised as George Menk. Joseph Menke was nine years older than George Menk.[35] The difference in their handwriting is obvious even to a layman and has been authoritatively established by Mr. de la Durantaye.[36]

Given all those factors, the Commission *FINDS* that:

7 – **Apart from being an alias for Dr. Joseph (Josef) Mengele, the name of Josef Menke was also that of an actual SS Major who, however, never came to Canada.**

2 – *Did Mengele attempt to enter Canada?*

The already-quoted newspaper story of January 1985 "revealed" that, in 1962, Mengele had applied to the Canadian embassy in Buenos Aires for a Canadian visa.

In his letter of 20 December 1984, Mr. Sol Littman had conveyed to the Prime Minister of Canada the same information.

Now there was no Canadian immigration officer in post in Buenos Aires in 1962. An External Affairs officer might give an applicant a form to fill out and to send to the Department of Immigration in Ottawa where it would be processed; the Buenos Aires embassy would keep no record.[37]

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[33] See footnote 12, this chapter.

[34] Exhibit P-148.

[35] Exhibits C-26 and P-150.

[36] Exhibit P-151.

[37] Evidence, Black (External Affairs), vol. V, p. 606; O'Leary (Immigration), vol. VI, pp. 748-749, p. 867; McLaughlin (External Affairs), vol. XIV, pp. 1744-1745.

Again, searches have been made through various government departments: they have failed to turn up any positive information concerning an application for a visa by Mengele either under his own name or under any of his several known aliases.[38]

Before the Commission, the former Solicitor General of Canada, Mr. Robert P. Kaplan, P.C., testified as follows:[39]

> We tracked Mengele to a certain extent and I received information from time to time, allegations and police evidence from various countries about Mengele, and I never heard at any time that he might have applied to come to Canada or that he might have been in Canada until the very well-known story, that Mengele was alleged to have applied to come to Canada from a South American Canadian mission. So that I never heard anyone say that there was any possibility that he had come to Canada.

The Commission, therefore, tried to find out where and what was the basis in fact for the story concerning the Buenos Aires incident.

In late 1984, documents had become available in the U.S.A. under the *Freedom of Information Act*. They have been filed before the Commission as exhibit P-152, together with Bailey's letter of June 1962, which was rendered public in Canada sometime around February 1985.

It is fair to say that the documents released in the U.S.A. make no reference whatsoever to a Buenos Aires approach by Mengele.

Commission counsel interviewed journalist Ralph Blumenthal in New York on 1 November 1985. Mr. Blumenthal freely acknowledged that he had had access to no other documents than those released in the U.S.A.; that the words "other records" used in his article referred to no other documents and, "with the benefit of hindsight . . . might appear a bit loose"; that the Buenos Aires connection had been brought to his attention during a conversation with Mr. Sol Littman who, in turn, had referred to a conversation he had had with "a retired Canadian immigration officer".[40]

Some ten days later, the *New York Times*' solicitors advised Commission counsel that Mr. Blumenthal would not be permitted to appear as a witness before the Commission nor would he sign an account of his conversation and that "there would be no further communication".[41] The Commission regrets the refusal of the *New York Times* to co-operate with it; subsequent events however, have robbed that refusal of its potentially negative effects.

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[38] Evidence, Yetter (RCMP), vol. V, p. 569; Sabourin (Immigration), vol. V, p. 599; Black (External Affairs), vol. V, pp. 604-605; O'Leary (Immigration), vol. VI, pp. 772-773.

[39] Evidence, vol., XXI, p. 2766.

[40] Evidence, vol. XXIII, pp. 3290-3295.

[41] Evidence, *ibid.* p. 3295.

Indeed, Mr. Littman admitted quite honestly that he had fed Blumenthal with the information the latter printed.[42] The basis for his assertions was three-fold:

a) The U.S.A.-released documents;

b) A memo from R.H. Hodges, retired, Central Intelligence Corps officer, of New York State, tracing Mengele's wanderings back and forth between Argentina and Paraguay;[43]

c) A conversation with "a retired Canadian immigration officer".[44]

Using Littman's own word, on that basis he "speculated" that:[45]

> If there is a Visa Control officer in Germany who is looking into what appeared to be an application, from where did he apply — since in those years it appeared that he was skipping back and forth between Paraguay and Buenos Aires. It seemed that the most likely possibility was that he had made his application from Buenos Aires.

There was the source of the Buenos Aires connection and of all the fracas which followed. Now: What were the facts? And what advice did Littman actually receive?

The facts

George Melvin Bailey, now retired, was stationed in June 1962 at the Canadian embassy in Cologne, West Germany. He was an officer in the RCMP and discharged the duties of chief visa control officer in West Germany.[46] His duties were essentially two-fold: he was in charge of security screening of applicants for immigration to Canada; he was also in charge of security or police inquiries requested from Canada.

In the first branch of his duties he, and his subordinates, would use the "green form" to make security checks from various sources on potential immigrants, and then make a decision. In the other branch of his duties, he would write to his sources and would report to headquarters in Canada.

Bailey's letter to USAREUR of 18 June 1962 (exhibit P-23) falls into the second category:[47] it bears on Joseph Menke "residing in Canada" (the identity of George Menk had not yet been ascertained); it is a security check asked from Canada, not an immigration check originating in Germany. Normally the USAREUR answer (exhibit P-27) would be sent back to RCMP headquarters in Ottawa.[48] That was a security check "emanating from Canada" (*ibid.*).

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[42] Evidence, vol. XXIII, p. 3298.

[43] Evidence, vol. XXIV, p. 3362.

[44] Exhibit P-153, p. 2.

[45] Evidence, vol. XXIV, p. 3363.

[46] Evidence, vol. XXIII, p. 3160 *ff.*

[47] *Ibid.*, p. 3166.

[48] *Ibid.*, p. 3169.

This conclusion is bolstered by Bailey's report of 20 July 1962 to RCMP headquarters concerning "Joseph Menke with alias".[49] It deals with the same case and, again, is "a result of an investigation made concerning a security request from Canada", not an immigration check.[50]

This evidence of Mr. Bailey is quite consonant with the various police reports and government correspondence which have been filed: an investigation had been launched in Canada on Joseph Menke, possible alias of Mengele, the departments of Justice and of External Affairs were involved, information was sought: obviously this was a Canadian security check, not an immigration procedure. In any event, Buenos Aires certainly does not form part of the picture at this point.

Such was the situation of fact.

The advice

Here the picture gets blurred; and, much to its regret, the Commission must say that it takes a dim view of the attitude of Mr. Littman.

In his letter of 19 October 1985 (exhibit P-153), Littman wrote to one of Commission counsel that he had "presented [the available material] for interpretation to a retired Canadian immigration officer". He gave the same information to Blumenthal.[51]

Before the Commission, Littman corrected his letter: he had consulted not one, but two persons.[52] Furthermore, in answer to Mr. Meighen's direct question, he refused to divulge their names in public, though he professed to be ready to give them *in camera* "... on the understanding that their names be protected and that they not be embarrassed in any way".[53] Littman was supported by Messrs. Matas and Cotler.[54]

The Commissioner, taking a contrary view, gave detailed reasons in support of his position[55] and concluded:

> So I rule that the question of Mr. Meighen is relevant, is well put in a public hearing of this Commission, and should be dealt with and should be answered here and now.

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[49] Exhibit P-141.

[50] Evidence, vol. XXIII, p. 3173.

[51] Evidence, vol. XXIII, p. 3293.

[52] Evidence, vol. XXIII, pp. 3304 and 3305.

[53] *Ibid.*, p. 3308.

[54] *Ibid.*, pp. 3310, 3317-3319; Messrs. Matas and Cotler appeared respectively for the League for Human Rights of B'nai Brith Canada and for the Canadian Jewish Congress.

[55] *Ibid.*, pp. 3319-3324.

The Commission granted Littman's request for an adjournment. The next day, Littman agreed to submit to the Commission's ruling, after declaring:[56]

> Finally, I must state clearly that the conclusions I drew as a result of these conversations were mine and mine alone. If there was any error, the error was also mine.

According to Littman, the two people he had consulted were Messrs. Al Naylor and Fred Yetter. Of course the Commission called them as witnesses.

Sergeant Fred Yetter, of the RCMP, recalled a conversation with Littman concerning the documents obtained by the latter (Bailey's own letter, exhibit P-23, was not yet known). According to Yetter:[57]

> . . . Mr. Littman assumed or speculated that possibly it was in relation to a visa application for Mr. Mengele or Mr. Menke or whatever to apply to come to Canada.

Yetter explained to Littman the dual functions of Bailey in Germany: immigration requests from Germany or security requests from Canada. On the basis only of USAREUR's reply to Bailey, Yetter advised Littman:[58]

> So, there is no way that you could say that that reply that he had was in relation to an application for a visa to enter Canada. You would have to have the whole picture.

Littman was, therefore, put on notice that, in view of the paucity of available information, it was dangerous to make the assumptions with which he was playing.

Mr. Alfred C. Naylor is not a "retired immigration officer". He is an active foreign affairs officer with the Department of External Affairs, on secondment to Immigration in Toronto. He has been in the service over 38 years.[59]

Mr. Naylor remembered to some extent a telephone conversation during which Littman read to him a "Bailey report" and asked whether it was accurate.[60] Naylor testified (*ibid.*):

> . . . when he [Littman] read the report out, he indicated that it was from Bailey, an RCMP officer, and that — he asked me did I think the report was correct and I said I — knowing the RCMP whom I hold in very high regard — I said it would be in detail enough to accept as an accurate.

Naylor did not discuss with Littman the duties of a visa control officer,[61] nor the possibility of an application by Mengele in Buenos Aires to come to Canada.[62]

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[56] Evidence, vol. XXIV, p. 3336.

[57] *Ibid.*, p. 3380.

[58] *Ibid.*, p. 3381.

[59] Evidence, vol. XXV, p. 3416.

[60] *Ibid.*, pp. 3418-3420.

[61] *Ibid.*, pp. 3426 and 3427.

[62] *Ibid.*, p. 3442.

So, there the matter rests.

There is no documentary evidence whatsoever of an attempt by Dr. Joseph Mengele to seek admission to Canada from Buenos Aires in 1962.

The affirmation has come from Mr. Sol Littman, and from him alone.

The documents which were then available to him related to a security request from Canada, not an immigration check from Germany, and do not bear out the theory of Mengele's visa application in Buenos Aires.

The advice which Littman solicited (whether it were from one or two people) did not support his assumptions, but put him on notice about their fragility.

As stated at the outset, all that Littman could rely on was "speculation, impression, possibility, hypothesis". Yet he chose to transmute them into statements of facts which he publicized, with the results that are now known.

This is a case where not a shred of evidence has been tendered to support Mr. Littman's statement to the Prime Minister of Canada on 20 December 1984, or Mr. Ralph Blumenthal's article in the *New York Times* on 23 January 1985.[63]

Indeed Mr. Littman has stated before the Commission:[64]

> Well, let me put it this way. We have accepted the fact that Mengele did not come to Canada and, in all likelihood, never applied to come over to Canada. We had no difficulty accepting that.

The Commission accordingly *FINDS* without the slightest hesitation that:

8 – Dr. Joseph (Josef) Mengele did not apply in Buenos Aires in 1962 for a visa to enter Canada, either under his own name or under any of his several known aliases.

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[63] There is not a single word about Canada in the recent book on this topic: *Mengele — The Complete Story*, by Gerald L. Posner and John Ware, McGraw-Hill Book Company, New York, 1986.

[64] Evidence, vol. XXIV, p. 3340.

Chapter I-7

THE LEGAL REMEDIES

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THE LEGAL REMEDIES

The Commission has been invited to advise the Governor- in-Council as to "what further action might be taken in Canada to bring to justice such alleged war criminals who might be residing within Canada, including recommendations as to what legal means are now available to bring to justice any such persons in Canada or whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes."

In 1984, the Law Reform Commission of Canada made a tentative approach to the problem in its working paper on "Extraterritorial Jurisdiction".[1] However, it did not come to any firm conclusion, but recommended (p. 86):

> 43. That the Government of Canada authorize a study of the complex subject of war crimes including relevant aspects of international law, comparative law, constitutional law, criminal law and military law with a view to determining what war crimes legislation should be enacted by Canada to replace our present outdated legislation. Until that study is done, any other recommendations would be premature. Regardless of who undertakes the study, the Ministry of the Solicitor General of Canada and the Departments of Justice, National Defence and External Affairs should be included as participants in it.
>
> [Footnotes omitted]

Equally well aware of this situation and of the awesome difficulties of which it was pregnant, the Commission tried to set up a task force designed to challenge those difficulties. By letters of 13 and 21 March 1985, the Commission invited the six departments of Justice, Solicitor General, Secretary of State (Citizenship), National Defence, Employment and Immigration and Secretary of State for External Affairs to delegate representatives who, together with Commission Counsel, would devote their full attention to a crash program in order to recommend to the Commission viable solutions to the questions posed by the Order-in-Council.

This invitation, however, did not generate any enthusiastic response. Outside of documents supplied by the Department of Justice and some advice from the Secretary of State (Citizenship), the Commission was thus left to its own initiative. It therefore collected all available material from government and private sources. It also commissioned eight independent studies from law professors and private practitioners across Canada. And of course it carried out its own searches. As a result, the Commission lists and will study the legal remedies in the following order of preference:

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[1] Law Reform Commission, "Extraterritorial Jurisdiction", Working Paper 37, Ministry of Supply and Services, Ottawa, 1984.

1- Extradition

2- Prosecution in Canada
    a) Under present law
        1. Canadian law
        2. International law
    b) Under amendments to the law

3- Denaturalization and Deportation

Before embarking upon a study of each remedy, it appears advisable to state, in brief, the basis for this order of preference.

Extradition, when requested and granted, would afford the opportunity of a trial in the country which is most intimately connected with the crimes alleged against the suspect. In a trial here, Canada stands in the position of a "surrogate" prosecutor. Thus extradition offers the best solution for suspected war criminals to be brought to justice, both from a legal and from a practical point of view.

In certain cases, however, extradition may not afford a workable remedy; criminal prosecution in Canada must then be considered. The Commission will look into various alternatives under Canadian law and international law. It will also discuss the advisability of various amendments to the present legislation.

As a last resort, Canada might look to denaturalization and deportation. The Commission gives to this process its lowest ranking because it does not really deal with the substantive issue of war crimes: it merely transfers the suspect to another country, provided there be one willing to accept the outcast. It is true that it is the remedy used by the U.S. Department of Justice. In his book *Quiet Neighbors*,[2] Allan A. Ryan, Jr. recalls the proud boast of 2,000 years ago: *Civis Romanus sum* and he comments:

(p. 340)

> By revoking citizenship, the polity — the American people joined together in a society and a government — takes the most solemn and drastic step available to it: the civil equivalent of excommunication.

(p. 342)

> A verdict of denaturalization is a formal decree of expulsion from our political body, a judgment that the individual is not fit to share the single common bond that unites the rest of us: the bond of citizenship.

Indeed the punishment should not be minimized; yet it does not offer the best answer to the evil of war crimes. In the opinion of the Commission, assuming that no other remedy is available, denaturalization and deportation could be used as a means of chasing war criminals away from Canada; but they are not the best way of really bringing them to justice.

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[2] Ryan, *Quiet Neighbors*, Harcourt Brace Jovanovich, New York, 1984.

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1) Extradition

"Extradition of alleged Nazi war criminals is next to impossible."[3]

This chapter will examine, at least under certain aspects, the validity of this statement.

Before proceeding with this study, a *caveat* must be sounded: the Commission will strictly limit itself to the legal aspects of extradition. Under s. 21 and s. 22 of the *Extradition Act*, the Minister of Justice possesses the discretion to order the discharge of a fugitive, once he has determined that the alleged offence or the intended prosecution is of a political character. Indeed, it is a known fact that Canada will not extradite, as a matter of policy, to a foreign country whose judicial or legal system does not provide sufficient guarantees of an independent and impartial administration of justice. Some such countries may be involved in this inquiry.

Section 7 of the *Charter of Rights and Freedoms* guarantees to everyone the benefit of the principles of fundamental justice. Whether this provision now fetters the ministerial discretion with previously unknown limitations favouring the citizen, is a question which may eventually have to be considered either by the Executive or the Judiciary; the Commission will express no view on the subject.

Under those circumstances, suffice it to say that a deliberate decision, not an oversight, explains that the Commission's analysis of the remedy of extradition in connection with war criminals shall not take into consideration the Minister's statutory discretion.

The same deliberateness has led the Commission to refuse to bow to insistent requests that it discard, as a matter of principle, the remedy of extradition: the latter falls squarely within the Commission's terms of reference.

"Extradition is the surrender by one state at the request of another of a person who is accused, or has been convicted, of a crime committed within the jurisdiction of the requesting state."[4]

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[3] Williams and Castel, *Canadian Criminal Law: International and Transnational Aspects*, Butterworths, Toronto, 1981, p. 177.

[4] La Forest, *Extradition to and from Canada*, 2nd ed., Canada Law Book Ltd., Toronto, 1977, p. 1.

Extradition is governed by the *Extradition Act*.[5] For the machinery to be set in motion, there must be a request by a foreign government. Concerning developments since the last war, some confusion has set in as a result of statements made by former Solicitor General Robert Kaplan and by Mr. Sol Littman.

During the course of his evidence before the Commission, Mr. Kaplan stated that "there were well over 100 requests".[6] It has now been made clear that Mr. Kaplan was referring to police investigations in relation to possible extradition rather than to formal extradition requests (*ibid.*) and that, indeed, the majority of them had been "initiated in Canada rather than initiated by a foreign request".[7]

The other confusing statement was made by Mr. Littman in a report which he wrote for the benefit of the Solicitor General of Canada and which he supplied on 23 August 1985 (the report itself is undated).[7a] At page 34 Mr. Littman said: "It was during this time [in the early 1960s], however, that the Soviet Embassy made representations to the Canadian government for the ***extradition*** to the U.S.S.R. of some 35 persons alleged to have committed crimes against humanity on Soviet territory. To the best of my knowledge, the Canadian government dismissed the requests as Soviet propaganda and made no official response." (emphasis added).

A close examination of the relevant documents shows that, indeed, the U.S.S.R. supplied to the Canadian government in 1979-1980 a list of 37 suspected war criminals who would have found harbour in Canada; but the Soviet Union had formally sought the extradition of only three of them. The other names were supplied for express purposes of denunciation, not extradition.

Actually, since World War II, Canada has received but a modest number of requests for the extradition of alleged war criminals. On the basis of information supplied by the departments of Justice, Solicitor General and External Affairs, as well as by the RCMP and the CSIS (Canadian Security Intelligence Service), those requests are listed as follows:

1951: from Yugoslavia, concerning one suspect;

1958: from Czechoslovakia, concerning two suspects; requests re-submitted in 1959;

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[5] (1970) R.S.C. c. E-21. This inquiry is not concerned with the *Fugitive Offenders Act*, (1970) R.S.C. c. F-32 which provides for rendition between Commonwealth countries.

[6] Evidence, vol. 21, p. 2752.

[7] *Ibid.*, p. 2754.

[7a] Exhibit P-159.

1964, 1965 and 1967: from the U.S.S.R., concerning three suspects;

1971: from Czechoslovakia, concerning one suspect;

1981: from the Netherlands, concerning one suspect;

1982: from Federal Republic of Germany, concerning one suspect (Rauca); case closed;

1982: from Poland, concerning one suspect;

1981-1984: from the U.S.S.R., concerning one suspect; renewed from 1964.

This list must now be read in conjunction with the list of countries with which Canada enjoys the benefit of "extradition arrangements" within the meaning of s. 2 of the *Extradition Act*.[8] The following conclusions must then be kept in mind in relation with the above-mentioned requests:

a) Canada never had an extradition treaty with Poland;

b) There is no extradition treaty in force between Canada and the U.S.S.R.;

c) Following the forced incorporation of Estonia, Latvia and Lithuania into the U.S.S.R., the 1928 treaties between Canada and those three Baltic states are regarded as inoperative;

d) There are treaties in force between Canada and, among others,

    Czechoslovakia
    France
    Federal Republic of Germany
    Hungary
    Israel
    Italy
    Netherlands
    Romania
    Yugoslavia.[9]

Given the prerequisite of a request by a foreign government, the possibility of extradition of a suspected war criminal may be conveniently examined under four different headings:

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[8] Exhibits P-15 and P-83.

[9] Williams and Castel have written in 1981: "Canada can only extradite a fugitive pursuant to a request from a country with which we have an extradition treaty or arrangement. Records indicate that Canada has never received such an extradition request". (*op. cit.*, p. 177). This statement appears to be mistaken.

a) Request from the Federal Republic of Germany;

b) Request from Israel;

c) Request from another country having a treaty with Canada;

d) Request from a country having no treaty with Canada.

a) Request from the Federal Republic of Germany

The only request for extradition for war crimes which the Canadian courts had occasion to deal with was presented by the F.R.G. in the matter of **Helmut Rauca.**[10] Rauca was extradited and died in prison while awaiting his trial in West Germany. There is no similar request pending. The Commission will, nevertheless, discuss the situation for the following reasons:

i) A similar request may well be presented in the future;

ii) The F.R.G. is the logical country to which to extradite war criminals, since their crimes were committed under German direction and in territories under German control;

iii) Experience has shown that in recent West German trials, evidence of the commission of war crimes could be reliably obtained from neighbouring countries.[11]

From a practical point of view, the jurisdictional basis that the F.R.G. can assert in support of a request for extradition is territorial: that the offence has been "committed within the territory of" the F.R.G., i.e., "all territory, waters and airspace under its jurisdiction".[12] This assertion involves two basic assumptions, both of which have been accepted by the Canadian courts in **Rauca:**

i) That the F.R.G. "is not the 'legal successor' to the German Reich, but is identical with the German Reich, even though territorially it is not identical with the Reich";[13]

ii) That " 'territory' as used in the treaty under consideration includes those areas occupied by and under the *de facto* control of Germany during the Second World War."[14]

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[10] **Federal Republic of Germany v. Rauca,** 1982, 38 *O.R.* (2d) 705, aff'd by 1983, 41 *O.R.* (2d) 225.

[11] **State Court of Hamburg, re Victor Bernhard Arajs,** 27 October 1980. **State Court of Munich, re Dr. Kurt Christmann,** 19 December 1980.

[12] Extradition Treaty between Canada and Germany, 1979 T.S. no. 18, art. I and XXX (1).

[13] 41 *O.R.* (2nd) 225, p. 235.

[14] *Ibid.*, p. 249.

By way of illustration, those two propositions underpinned the order of extradition against Rauca for crimes allegedly committed in Lithuania whilst this country was under Nazi Germany occupation.

It is worth noting, in passing, that even though the treaty between Canada and Germany came into force in 1979, s. 12 of the *Extradition Act* makes it applicable to crimes "committed . . . before the date of the arrangement".

For the rest, there is no point in belabouring the various questions which were raised and solved in **Rauca:** the stage has now been set for other requests by the F.R.G., should it wish to proceed.

The Commission *FINDS* that

9- Extradition of a war criminal to the Federal Republic of Germany should, if requested, be favourably considered, once *prima facie* evidence has been brought of the suspect's commission of the alleged crime.

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b) Request from Israel

At first glance, considerable hurdles would have to be overcome by the State of Israel: indeed, the war crimes were committed before it existed, on a territory which was not its own, and against people who, by definition, have only become its nationals later on, if at all.

Yet Israel has affirmed its jurisdiction against all those odds in the matter of **Eichmann.**[15]

The District Court stated:[16]

(p. 56)

> The principle of continuity applies also to the power to legislate: the Israel legislator may amend or supplement Mandatory legislation retroactively by enacting laws applicable to criminal acts which were committed prior to the establishment of the State.

(p. 57)

> The fact that this people has since the catastrophe changed from object to subject, from the victim of racial crime to the possessor of authority to punish the criminals, is a great historic right that cannot be abrogated. The State of Israel, the sovereign State of the Jewish people, performs through its legislation the task of carrying into effect the right of the Jewish people to punish the criminals who killed its sons with intent to put an end to the survival of this people. We are convinced that this power conforms to the subsisting principles of the law of nations.

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[15] **Attorney General of the Government of Israel v. Eichmann**, 1961, 36 *I.L.R.*, 5 District Court, p. 18; 1962, Supreme Court, p. 277.

[16] *Ibid.*, pp. 56 and 57.

The Supreme Court of Israel confirmed:

(p. 304)

> We sum up our views on this subject as follows. Not only do all the crimes attributed to the appellant bear an international character, but their harmful and murderous effects were so embracing and widespread as to shake the international community to its very foundations. The State of Israel therefore was entitled, pursuant to the principle of universal jurisdiction and in the capacity of a guardian of international law and an agent for its enforcement, to try the appellant. That being the case, no importance attaches to the fact that the State of Israel did not exist when the offences were committed.

However, the 1967 *Extradition Agreement* between Canada and Israel[17] presents two insuperable obstacles to extradition requests by Israel on account of war crimes:

i) Under its art. 1, the offence must have been "committed within the territory of one party", i.e., in this case, of the State of Israel;

ii) Under the exchange of notes of 4 February 1969, the Agreement "shall apply only to offences committed or convictions which have taken place after the date of signature", i.e., after 10 March 1967.

True, s. 12 of the *Extradition Act* covers crimes "committed before the date of the arrangement". But s. 3 of the Act provides that "no provision of this Part that is inconsistent with any of the terms of the arrangement has effect to contravene the arrangement".

The two above-quoted provisions of the Agreement are clear and no miracle of construction can render them capable of encompassing crimes committed under the aegis "of Nazi Germany during World War II".[18]

The Commission therefore *FINDS* that

10- Under the 1967 *Extradition Agreement* between Canada and Israel as it now stands, no request for extradition based on Nazi war crimes can be entertained.

However, agreements are not necessarily entered into for eternity: where need arises, they can be improved. Such is the case here. The two above-mentioned obstacles can and should be lifted, both as to time and as to territory.

i) As to time

It is a singular provision which was introduced into the Canada - Israel Treaty in 1969, i.e., two years after its signature, and which prevents extradition for an offence or conviction anterior to the signature of the treaty.

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[17] 1969 T.S. no. 25; also 1970 *Canada Gazette*, Part I, 10 January 1970, p. 63.

[18] See Order-in-Council P.C. 1985-348.

As has been seen before, the contrary principle is sanctioned at large in s. 12 of the *Extradition Act*. Also the U.S.A. – Israel Extradition Treaty[19] which was signed on 10 December 1962, i.e., more than four years before the Canada – Israel Treaty, contains no exclusion in time similar to the one found in the 1969 amendment to the Canadian treaty. Indeed this situation was recently considered by the U.S. District Court in **Israël v. Demjanjuk,**[20] which raised a war crimes issue and where the Court said (p. 34):

> The drafters could have excluded charges under this statute from the Treaty — or even all charges arising during the World War II period — had they wished to do so. Article 21 of the extradition treaty between Israel and Canada explicitly excludes "offenses committed or convictions which have taken place" before the treaty was signed. Extradition Agreement Between the Government of the State of Israel and the Government of Canada, (1970) U.N.T.S. 270 [entered into force December 19, 1969]. The United States – Israel Treaty contains no such limitation or exclusion.

In the matter of **Federal Republic of Germany v. Rauca,**[21] the respondent was extradited, in 1982, on charges of war crimes, pursuant to the 1979 treaty between Canada and the F.R.G. which does not contain any time-limitation provision either.

The Commission was accordingly curious to find out what motives could have prompted Israel and Canada to agree, as they did, on a strictly prospective application of this treaty. The Secretary of State for External Affairs graciously made his department's file available to the Commission.

The negotiations started in May 1964. Canada presented a draft which made the treaty retroactive to cover offences committed on or after 1 January 1949 (later internal inquiries failed to disclose the reason for the choice of that particular date). Israel commented that it did not understand the reason for that specific date and that the question should be left to the application of the parties' respective prescription law. Canada deleted the provision from its draft.

Then Israel presented its own draft which provided, in the article dealing with ratification, that the treaty would apply to offences committed or convictions obtained not earlier than three years before the date of signature. Canada suggested that this should be included in a separate article.

The working draft for the final stage of the negotiations was furnished by the Canadian side and excluded all mention of retroactivity.

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[19] 14 UST. 1717.

[20] Misc. no. 83-349, Northern District of Ohio, 15 April 1985.

[21] See footnote 8, this chapter.

Apparently it had been decided "to let the law take its course".

The treaty, silent on the matter, was signed in Ottawa on 10 March 1967. On 17 March, the Honourable Paul Martin wrote to Senator David Croll: "Israel never suggested that war crimes should be covered by this Agreement". But in the following months the question of retroactivity in general gave rise to a flurry of letters and memos within the civil service, where External Affairs felt that "the subject is of considerable importance".

However, throughout those exchanges one definitely senses that Canada was not interested in retroactive application of the treaty and was looking for a way to make this conclusion clear, without embarrassing complications. Finally, Israel agreed to non-retroactivity and even went so far as to suggest the exact wording of a suitable amendment to the treaty. Save one word — without importance here — this is exactly the text of the amendment "proposed" by Canada on 4 February 1969 and "accepted" by Israel on the same day.

In the field of war crimes, this Amendment is a cruel embarrassment. It covers both offences and convictions posterior to the date of signature of the treaty. As to offences, this is a clear bar to extradition for war crimes. As to convictions, in theory a conviction could conceivably be obtained now in Israel, on which this state could found an extradition request. But this Inquiry is interested only in alleged war criminals who are "currently resident in Canada": by definition, the conviction would have to be registered in absentia. Now s. 2 of the *Extradition Act* excludes from the very definition of conviction "a condemnation under foreign law by reason of contumacy". All avenues are thus blocked under the 1969 Amendment.

The Commission is ignorant why the question of war criminals was apparently not raised by Israel either during the original negotiations or during the discussions which led to the amendment to the treaty. However that may be, abrogating this amendment should be the first task of those who are interested in bringing war criminals to justice.

In the course of the testimony which the former Solicitor General of Canada, Mr. Robert P. Kaplan, P.C., gave before the Commission on 9 October 1985, he stated:[22]

> I am suggesting that the bar which exists in our treaty ought to be removed. On the recent visit to Canada of the Foreign Minister of Israel, Yitzhak Shamir, I raised the matter with him in a meeting that he had with some members of the Liberal caucus in Ottawa. After raising the point, he took note of it, and a few weeks later we were informed that Israel would be prepared to see the treaty amended in that way.

For all those reasons, it would be appropriate, and consonant with the general policy of the *Extradition Act*, that the 1969 Amendment to the Canada – Israel Treaty be abrogated so as to let s. 12 of the *Extradition Act* have its full effect.

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[22] Evidence, vol. XX, p. 2621.

ii) As to territory

Curiously enough, on this count also the Canadian treaty with Israel is more restrictive than the U.S. treaty. Article I of the Canadian treaty establishes that the offence must have been "committed within the territory of one party", in this case, Israel.

In the American treaty, arts. I and III contain the following relevant provisions:

> [art. I]. . . offenses . . . committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article III of the present Convention.
>
> [art. III] When the offense has been committed outside the territorial jurisdiction of the requesting Party, extradition need not be granted unless the laws of the requested Party provide for the punishment of such an offense committed in similar circumstances. . . .

There is no reason of high policy known to the Commission why the Canadian treaty could not be broadened to incorporate the provisions found in the American treaty. For the purposes of the present discussion, it is immaterial whether Canadian laws, addressing the issue of war crimes, "provide for the punishment of such an offence in similar circumstances". Assuming, for purposes of discussion only, that they do not, the quoted provisions nevertheless allow for executive discretion, once extraditability has been found by the Court; and justice could follow its course.

On 31 October 1985 the U.S. Court of Appeals (6th Circuit) had the occasion of interpreting this particular provision of the U.S.A. – Israel Extradition Treaty when it dismissed Demjanjuk's last appeal:[23]

> We agree with the two courts which have construed the language which is common to the treaties with Sweden and Israel. In our view the treaty language makes two things clear: (1) the parties recognize the right to request extradition for extraterritorial crimes, and (2) the requested party has the discretion to deny extradition if its laws do not provide for punishment of offenses committed under similar circumstances. This provision does not affect the authority of a court to certify extraditability; it merely distinguishes between cases where the requested party is required to honor a request and those where it has discretion to deny a request. That the specific offense charged is not a crime in the United States does not necessarily rule out extradition.

It is true that jurisdiction must then be found to exist with the Israeli courts to deal with war crimes. The question has been given an affirmative answer, on the basis of the principle of universal jurisdiction in matters of war crimes, and of the 1950 Israel Statute: Nazis and Nazi Collaborators (punishment) Law, 5710-1950; see **Eichmann** (footnote 15) and **Demjanjuk** (footnote 20).

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[23] **Demjanjuk v. Petrovsky,** U.S. Court of Appeals, Sixth Circuit, no. 85-3435, at p. 14.

The Commission accordingly *RECOMMENDS* that:

11- The 1967 extradition agreement between Canada and Israel should be amended:

a) To abrogate the restriction, introduced into art. 21 in 1969, as to the date of the offence or the conviction for which extradition is sought; and

b) To allow for executive discretion by the requested state, following the model in art. III of the 1962 U.S.A. – Israel Extradition Treaty, when extraterritorial jurisdiction is asserted by the requesting state.

c) Request from another country having a treaty with Canada

Among such countries, there are requests for extradition pending from Czechoslovakia, the Netherlands and Yugoslavia. In the three cases, treaties now binding Canada were entered into by the United Kingdom on 26 September 1898 with the Netherlands;[24] on 23 November 1900 with Servia (Yugoslavia);[25] and on 11 November 1924 with Czechoslovakia.[26]

Under the first two treaties, the crime must have been committed "in the territory of" the country concerned; under the third treaty, "within the jurisdiction of" that country. La Forest ventures the view that "whether this makes any difference is not entirely clear".[27] However that may be, the alleged war crimes were committed whilst those countries were occupied by Nazi Germany. They might well form the basis of requests for extradition by the F.R.G., since Nazi Germany exercised at the time *de facto* jurisdiction and control over their respective territories. But this should be no obstacle for those countries, now that they have recovered their independence, to request extradition on their own authority.

Indeed, in the 1950s, Yugoslavia requested from the U.S.A. the extradition of Andrija Artukovic.[28] The latter moved to strike the claim "on the ground that the Federal People's Republic of Yugoslavia is not the proper demanding government as the crimes, if any, were not committed within its jurisdiction." (p. 387). The extradition commissioner denied the motion (p. 388) and allowed the request to proceed on the merits.

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[24] Brit. Tr. Series 1899/1; *Canada Gazette* XXXII, p. 1783.

[25] Brit. Tr. Series 1901/8; *Canada Gazette* XXXV, p. 546.

[26] Can. T. S. 1928/8; *Canada Gazette* LXVIII, p. 274.

[27] La Forest, *op. cit.*, p. 44.

[28] **U.S. v. Artukovic**, 170 *F. Supp.*, p. 383.

Should there be two competing requests directed against the same individual, "his extradition shall be granted to that State whose demand is earliest in date".[29]

The Commission accordingly *FINDS* that

12- Requests for extradition of war criminals by other countries having a treaty with Canada should be favourably considered, when the usual conditions provided by law are met.

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d) Request from a country having no treaty with Canada

Canada has received such requests from Poland and the U.S.S.R.. Both countries have suffered from war crimes on their territories, but there is no extradition treaty in force between either one of them and Canada.

Part II of the *Extradition Act* deals with "Extradition Irrespective of Treaty" and establishes the necessary mechanism, upon a proclamation of the Governor General (s. 35), but it applies only to "crimes . . . committed after the coming into force of this Part" (s. 36). This mechanism is therefore of no avail for Nazi war crimes.

In support of its request of 1982, Poland alleged "the provisions of Article VI of the *Convention on the Prevention and Punishment of the Crime of Genocide* adopted by the United Nations General Assembly on December 9th, 1948 to which both the Polish People's Republic and Canada have acceded." This art. VI reads as follows:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article III includes conspiracy, incitement, attempt to and complicity in genocide.

The International Penal Tribunal referred to in art. VI has never been constituted.

The only remedy foreseen by the Convention passes therefore through extradition. But in the Canadian system, extradition is a creation of statute and treaty. If there ever existed a possibility of extradition at common law, such has long ago been superseded in Canada by exclusive statutory authority.

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[29] Article XIV of *Treaty with the Netherlands*; art. XIII of two other treaties.

[30] (1933) *O.R.* 675, at p. 678.

In **Re: Insull,**[30] an Ontario extradition judge decided:

> . . . extradition is purely a creature of the treaty and the statute. There is no inherent power in our Courts to deal with alleged offences in a foreign state except in so far as authorized by statute validating a treaty with another country.

In the same vein La Forest writes:[31]

> It is submitted, however, that, Parliament having enacted a comprehensive scheme of extradition, including power to surrender without treaty, any prerogative power in this domain has been suspended.

Indeed, art. VII of the Genocide Convention implicitly acknowledges that situation:

> Genocide and the other acts enumerated in art. III shall not be considered as political crimes for the purpose of extradition.
>
> The Contracting Parties pledge themselves in such cases to grant extradition *in accordance with their laws and treaties in force.*
>
> (emphasis added)

But this art. VII deserves a closer examination.

The first paragraph would render, and is indeed meant to render, nugatory the power of the Minister of Justice, under s. 22 of the *Extradition Act*, to order the discharge of the fugitive when he has determined that the offence is of a political character. In matters of genocide, this was an essential provision.

As to the second paragraph of art. VII, it should first be kept in mind that when the *Extradition Act* speaks of an "extradition arrangement" as "a treaty, convention or arrangement . . . made by Her Majesty with a foreign State", it does not refer exclusively to bilateral arrangements; the definition is equally apt to cover multilateral arrangements such as an international convention. La Forest states:[32]

> Canada is a party to a number of multinational conventions which make provision for extradition for certain types of crime. These conventions, which apply to a large number of countries, show the desire on the part of the international community to curb transnational crime.

There remains to be seen whether the Genocide Convention contains, in the second paragraph of its art. VII, such an "extradition arrangement" which might enter the purview of the *Extradition Act*. The answer to this question hinges upon the extent of the constraining effect which one is prepared to give art. VII; and this effect depends, in turn, upon the strictness of the construction which one is led to draw from a careful reading of the provision.

Reading art. VII with a view to giving the convention the most far-reaching effect possible, one may logically argue that extradition is of the essence of the convention so that, through international co-operation, the authors of a genocide be punished wherever they may have found a temporary refuge. The second paragraph of art. VII should therefore be read as mandatory; extradition under the convention would be compulsory irrespective of the existence of a treaty, and the reference to "laws and treaties" would only mean that they should be complied with where they exist.

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[31] La Forest, *op. cit.*, p. 18.

[32] La Forest, *op. cit.*, p. 31.

Under that interpretation, the Genocide Convention stands as an extradition convention in its own right, it answers to the definition of an "extradition arrangement" and it falls under the applicable provisions of the *Extradition Act*.

Others, however, see no compelling reason to give to a convention such a wide-ranging application in the absence of clear wording to that effect. Had the United Nations wanted to achieve that compulsory result, they could easily have said so. Indeed, in the Secretary General's first draft of the convention, the relevant paragraph reads as follows: "The High Contracting Parties pledge themselves to grant extradition in cases of genocide." But the draft was amended in order to add: "in accordance with their laws and treaties in force". Some significance must be attached to that amendment; and it can only mean, upon a strict construction of the words used, that the provision was not meant to be mandatory, that extradition is not compulsory and that it can only be requested when there are laws and treaties covering the case.

Under that interpretation, the Genocide Convention does not stand as an extradition convention in its own right, it does not constitute an "extradition arrangement" under the *Extradition Act* and it does not fall under the Act.

There is no binding authority on the topic, and the learned opinions are divided.

In his treatise on *The Status of Refugees in International Law*,[33] Grahl-Madsen advocates the compulsory character of the extradition provision in the convention:

> It must be assumed that the pledge to extradite shall in principle apply, also in the absence of any extradition treaty between the States concerned. The reference to laws and extradition treaties means that extradition may, however, be refused in cases where extradition would be contrary to the laws of the requested State (e.g. in the case of one of its own nationals) or to express provisions of the relevant extradition treaty. Furthermore, it means that the extradition of persons falling under the Genocide Convention is subject to the procedural provisions of extradition laws and treaties.

In his *Commentary* on the Genocide Convention,[34] Nehemiah Robinson started by affirming the binding effect of the convention. But he seems to have been immediately leaning towards a less sweeping conclusion:

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[33] Grahl-Madsen, *The Status of Refugees in International Law*, vol. II, A.W. Sijthoff, Leyden, 1966, pp. 32-33.

[34] Robinson, *Commentary*, Rausen Bros., New York, 1960, pp. 87- 88.

> On the basis of paragraph 2, the parties to the Convention are bound to grant extradition of persons charged with crimes falling under the Convention; ordinarily, a State, if not bound by a treaty or its own legislation (on the basis of reciprocity) can refuse extradition for any crime. However, the obligation is made conditional upon the provisions of the domestic law in the country where the culprit has found refuge and upon the treaties it has concluded with the requesting State on matters of extradition. Thus, the crimes coming under the Convention are not regarded as extraditable offenses per se but only within the general limitations of the domestic law in the State of asylum and its treaties in force, regarding extradition for non-political crimes. It should be noted that the above-mentioned Convention for the Suppression of Counterfeiting Currency of April 20, 1929, provides that the offenses dealt with by the Convention shall be deemed to be included in the various extradition treaties concluded by the contracting parties. The Genocide Convention, on the other hand, leaves all these questions to the treaties in force.

Several authors have taken the strict-constructionist point of view and sustained the non-compulsory character of art. VII of the Convention. In 1972, Professor John M. Raymond published a passionate plea against the United States joining the Genocide Convention.[35] Dealing specifically with art. VII, he wrote:

> In point of fact, the obligation is to provide by treaty or law for such extradition.
>
> Thus, the scheme of the Convention is that each state that is a party shall, by appropriate measures, make the specified acts punishable when committed within its jurisdiction, and extraditable when committed within the jurisdiction of any other party.

Two years later, Professor M. Cherif Bassiouni published his treatise on *International Extradition and World Public Order*,[36] where he expressed the opinion that,

> . . . paradoxically the 1948 Genocide Convention, only requires states not to qualify genocide and other offenses described in the Convention as political offenses.

In 1977 Mr. Barry M. Schiller wrote "Life in a Symbolic Universe: Comments on the Genocide Convention and International Law."[37] He stated:

> It appears that the full legal significance of the Genocide Convention instead lies in the good faith obligation of signatories to enter into bilateral treaties of extradition, and to disavow the characterization of genocide as a "political crime" under the terms of such treaties.

In Canada, La Forest shares the latter view:[38] ". . . it [the Genocide Convention] does not provide for compulsory extradition . . . ".

So does Jack Silverstone:[39] "Article VII does not provide for compulsory extradition."

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[35] Raymond, "Genocide: An Unconstitutional Human Rights Convention?" 12 *Santa Clara Lawyer* 294 (1972), p. 308.

[36] Bassiouni, *International Extradition and World Public Order*, A.W. Sijthoff, Leyden, 1974, p. 14.

[37] Schiller, "Life in a Symbolic Universe", 9 *S.W.U.L.R.* 47 (1977), p. 68.

[38] La Forest, *op. cit.*, p. 31.

[39] Silverstone, *War Criminals in Canada: Legislative Options*,Library of Parliament, Ottawa, 1981, p. 19.

The Commission shares the same opinion. When a contractual text is open to two interpretations, one of which respects the freedom of the parties and the wording of the convention whilst the other imposes on the parties a special duty and, on the text, a particular stricture, freedom must win. Should it be felt that such an interpretation betrays the intention of the members of the General Assembly and that the latter had actually wanted to impose on themselves new duties of co-operation to combat genocide, it is to that august body that the requesting state, Poland in this instance, should make its submission.

For the time being, Canada has taken the stand that the Genocide Convention "did not provide a legal basis for extradition":[40] the Commission approves that view.

In 1985 the U.S.S.R. renewed extradition requests which it had submitted in 1964 and 1967, basing them on the following instruments:

The *Declaration on the Punishment for Crimes Committed during the War*: St. James, 13 January 1942;

The *Declaration on German Atrocities*: Moscow, 30 October 1943;

The *Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis*: London, 8 August 1945;

United Nations General Assembly Resolution 3(I): 13 February 1946;

United Nations General Assembly Resolution 170(III): 31 October 1947.

According to Mr. W.H. Corbett,[41] Canada took the following position:

> Canada is not a party to the "Declaration of Hitlerites" [*Sic*] or the "Regulations of the International Military Tribunal" and is not bound by them. Canada views U.N. Resolutions as recommendations only and not binding legal obligations. None of these therefore provides a legal basis for extradition.

According to the same source, the U.S.S.R. ". . . responded by stating that domestic law must yield before contemporary international law which obliges all states to prosecute crimes against peace and humanity." (*Ibid.*)

One must therefore find whether the international instruments listed above create any legal obligations for the individual members of the society of nations and, in the affirmative, whether those obligations have been carried into Canadian domestic law, eventually with corresponding rights and duties.

The 1942 *St. James's Declaration* was issued by nine governments whose countries were occupied by Nazi Germany. Eight other countries, including

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[40] Exhibit P-83.

[41] Exhibit P-83, p. 2.

Canada, appeared as observers. The Declaration takes note of Nazi violence against civilian populations, declares as one of the principal war aims the punishment of those guilty for such crimes and expresses the international determination that judgments be passed and sentences be carried out.

It is immediately apparent that this Declaration, politically important as it may have been at the time, had none of the trappings of a treaty, imposed no legal obligation on Canada and cannot, by any stretch of imagination, serve as the foundation of an extradition order.

The 1943 *Moscow Declaration* is a declaration of policy on the part of the United Kingdom, the U.S.A. and the U.S.S.R.. It provides for the return and trial of war criminals. The three Allied Powers purported to be "speaking in the interests of the thirty-two [thirty-three] United Nations". It is not known whether Canada was consulted before, or took any position after the document was issued (exhibit P-83). In any event it is obviously not a formal international agreement; furthermore Canada is not a party to it.

The *Moscow Declaration* was an important political commitment, but it lacks the elements necessary to make it an instrument binding on Canada, creating for Canada legal obligations and thus providing a juridical basis for extradition.

The 1945 *London Agreement* was the basis for the Nürnberg trials. It was signed by the United Kingdom, the U.S.A., the U.S.S.R. and France. It provided for the accession of other governments, and some 19 did. For reasons unknown however (exhibit P-83), Canada never became a party to this Agreement.

For the same reasons, as in the case of the *Moscow Declaration*, the *London Agreement* does not provide a juridical basis for a request for extradition of war criminals from Canada.

As to the resolutions of the General Assembly of the United Nations, it must be recalled that art. X of the *Charter of the United Nations* only gives the General Assembly a power of recommendation. Such is, indeed, the very wording of the resolutions on which the U.S.S.R. relies. By definition, those resolutions do not constitute binding arrangements, quite irrespective of the votes which Canada may have cast, and again they cannot provide, under Canadian law, a juridical basis for extradition.

Thus nothing in the Soviet request could be used by a Canadian extradition judge as the legal basis for an order of committal of a suspected war criminal with a view to surrendering him to the U.S.S.R..

The Commission accordingly *FINDS* that

13- Requests for extradition of war criminals by countries having no treaty with Canada cannot be entertained either under the 1942 *St. James's Declaration*, the 1943 *Moscow Declaration*, the 1945

London Agreement,* the 1946 and 1947 relevant *Resolutions* of the United Nations General Assembly or the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide.

In spite of the natural temptation to close the discussion here — since Poland and the U.S.S.R. have put forward no other argument in support of their requests for extradition — one must, in all fairness, explore another possibility: the avenue which may be opened by the *Geneva Conventions Act*[42] adopted by Canada in 1965.

As we have already seen, an actual "treaty" between Canada and the requesting state is not an absolute necessity under the *Extradition Act*: s. 2 is satisfied provided there exist an "arrangement" by way of a "convention", which may as well be a multilateral agreement. But three conditions precedent must be satisfied:

a) That both Canada and the requesting state be parties to the convention;

b) That the convention provide for extradition, thus qualifying as an "extradition arrangement";

c) That the convention cover acts which fall under the definition of war crimes.

By the *Geneva Conventions Act*, Parliament has "approved" the four conventions signed at Geneva on 12 August 1949 (s. 2). They deal respectively with the wounded military, the wounded seamen, prisoners of war and civilian persons. Since the requests of Poland and the U.S.S.R. deal essentially with crimes committed against civilians, the Commission will study the matter in connection with Convention IV "relative to the Protection of Civilian Persons in Time of War".[43] This should not be considered as an exclusion of the possibility of requests founded on crimes committed against, for example, prisoners of war.

The Commission now turns to the three above-mentioned conditions:

a) Canada, Poland and the U.S.S.R. are all signatories of the Convention.

b) Article 146 of the Convention provides for extradition; its first two paragraphs read as follows:[44]

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[42] (1970) R.S.C. c. G-3.

[43] Schedule IV of the Act.

[44] The 1977 Protocol I provides that "The High Contracting Parties shall co-operate in the matter of extradition" (art. 88.2). Canada has signed the Protocol, but never ratified it.

> The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.
>
> Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

The Convention qualifies as an "extradition arrangement" under s. 2 of the *Extradition Act*. Yet, the above-noted provisions raise in turn the questions of compulsion and retroactivity.

i) Compulsion:

The Convention does not make extradition compulsory; it allows for either prosecution in Canada or extradition. But this factor does not prevent the application of the *Extradition Act*; it rather ties in nicely with the discretion given to the Minister of Justice by s. 22 (political offences) and s. 25 (generally).

ii) Retroactivity:

The *Geneva Conventions Act* was adopted in 1965. The Convention itself was signed in 1949. It is silent on its own application in time. But when it comes to extradition, s. 12 of the Act governs: it matters not whether the crime was "committed . . . before or after the date of the arrangement".

c) The persons who are protected under the Convention are defined by its art. 4; the first paragraph will suffice for the present purposes:

> Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Given that definition, the Convention describes the prohibited breaches in its art. 147:

> Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

This description closely parallels that of war crimes which the Commission has given in chapter I-4.

Thus, the three conditions outlined above are filled: *Geneva Convention IV* is an "extradition arrangement" within the meaning of the *Extradition Act*.

Some allegations of the requesting states dealt with crimes committed against prisoners of war. Convention III "relative to the Treatment of Prisoners of War"[45] then becomes relevant. Article 129 provides for trial or extradition, and art. 130 describes the "grave breaches" which are prohibited. Those provisions are couched in substantially the same terms as the corresponding articles in *Convention IV* and lead to the same conclusions.

The Commission accordingly *FINDS* that

14- Even in the absence of a bilateral treaty, requests for extradition of war criminals from Canada may be entertained under the 1949 *Geneva Conventions* relative to the treatment of prisoners of war and relative to the protection of civilian persons in time of war, provided the requesting state be a party to the relevant convention (as are Poland and the U.S.S.R.) and the charge constitute both one of the "grave breaches" described in such convention and a war crime.

In order to overcome the undeniable difficulty created by the absence of a treaty with the countries which may have an interest in trying war criminals who now reside in Canada, three other remedies have been advocated. The Commission will examine them now.

i) One remedy would be to enter into a treaty with the requesting country: this, as the French saying goes, is a "*La Palissade*". The wisdom and the practicability of the suggestion are, however, highly questionable.

ii) Another remedy would be to amend Part II of the *Extradition Act* to allow it to apply to crimes committed before, and not only after, the Proclamation extending the Act to the requesting state. Indeed, extradition treaties usually cover crimes committed as well before their signature; so does Part I of the *Extradition Act* (s. 12).

One has to go back nearly a century to find an explanation for the present contrary provision (s. 36) in Part II of the *Extradition Act*. Section 36 reads as follows:

> 36. This Part applies to any crime, mentioned in Schedule III, that is committed after the coming into force of this Part as regards any foreign state to which this Part has by proclamation been declared to apply.

Saving mechanical amendments, that provision comes directly from ss. 3(2) of the first ancestor of Part II of the *Extradition Act*: *An Act to extend the provisions of the Extradition Act*,[46] which was assented to on 2 May 1889.

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[45] Schedule III of the Act.

[46] (1889) S.C. (52) Vict. (c. 36).

When Mr. Weldon, a private member, moved the first reading of the Act,[47] he mentioned that "there is an *ex post facto* clause in the Bill".[48] This clause was contained in ss. 3(2) and read as follows:

> 2. The provisions of this Act shall apply to any crime mentioned in the said schedule, *whether such crime was* committed *before or* after the coming into force of this Act, as regards any foreign state as hereinafter provided.

(emphasis added)

After second reading, the House resolved itself into Committee[49] and a long debate took place on ss. 3(2). The first speaker, Mr. Lavergne, moved an amendment in order to delete the words which have been underlined in the above-quoted draft;[50] the purpose of the amendment was obviously to provide that the Act would not apply to crimes committed before the coming into force of the Act. There followed a discussion which was truly — and with all due respect for the distinguished members of the House — a "*dialogue de sourds*".

The mover of the Bill, Mr. Weldon, did his best to put the matter in its proper perspective:[51]

> Honourable members have said that a retroactive law is an unjust law and that retroactive criminal legislation is unjust legislation. I agree to that; but the element of injustice is in making a thing criminal and punishable to-day which was innocent at the time the so called criminal action was done. If a man did a thing not knowing there were penal consequences and that subsequently, legislation attaching penal consequences was enacted, then the injustice would come in, and I agree that if this Bill had such provisions it would be in its essence retroactive, and would be bad. We are not now making a criminal law; we are not defining a crime, we are not now saying that an act shall be a guilty act which was not guilty when the offence was committed. They who burned houses, they who committed burglaries, they who robbed banks and they who wrecked railway trains, knew when they committed these crimes that they were crimes and we are not now legislating to make them more criminal. By accident these criminals escaped the officers of justice and crossed the boundary line and all we say is that when a prima facie case is made out against them "let them go back".

Mr. Wallace also spoke in favour of the proposed provision; but Messrs. Curran, Tisdale, Denison, Mitchell and Skinner all supported the amendment.[52]

Those defending the Bill deprecated the situation where rascals crossed the border from the U.S.A. and flaunted in Canada their ill-gotten gains. But their opponents lamented the hardships that might be caused to those people who, after committing offences years ago, had settled in Canada and become respectable citizens (one hears an echo of that argument in connection with war criminals today).

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[47] *Hansard*, House of Commons Debates, 1889, vol. I, p. 346.

[48] *Ibid.*, p. 347.

[49] *Ibid.*, vol. II, p. 1470.

[50] *Ibid.*, p. 1475.

[51] *Ibid.*, p. 1476.

[52] *Ibid.*, pp. 1475-1479.

Hansard then states laconically (*ibid.*): "Amendment agreed to".

In the Senate the debate was still shorter and gives no clue either on the change of policy embodied in the amendment.[52a]

It is therefore impossible to find out from the parliamentary debates what moved the government in 1889 to bow to an opposition amendment striking off the *ex post facto* provision in the Bill. It appears that, a few years before, the British government had objected to Canada legislating at all on extradition and had taken the position that this matter must be regulated by treaty.[53]

Be that as it may, the legislative history of ss. 3(2) of the 1889 Act does not shed any convincing light on the current s. 36 of the *Extradition Act*: the reasons advanced a century ago by the promoters of the original provision strike the Commission as much more cogent than the rather sentimental plea raised against it at the time, even though the latter convinced the majority of both Houses.

More recently, another objection has been raised which Professor L.C. Green has stated in short, as follows:[54]

> Any attempt to charge a person with genocide in relation to acts committed during the Second World War, or grave breaches as defined in the 1949 Conventions would be met by the plea that in accordance with Article 15 of the International Covenant on Civil and Political Rights, to which Canada acceded in May 1976, "no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed".

It should first be remembered that Professor Green was likely discussing the possibility of a prosecution in Canada; rather we are concerned here with extradition where, as we have seen, the underlying policy is different as to time.

Furthermore, it is not wholly accurate to consider that at least some grave breaches of the *Geneva Conventions* "did not constitute a criminal offence at the time when they were committed". Long before they were given the additional label of "grave breaches", such acts, which at the same time qualified as war crimes, had been prohibited as criminal: e.g., murder, rape, robbery. A prosecution would not offend, therefore, against art. 15 of the Covenant.

The 1981 memorandum of the Interdepartmental Committee chaired by Mr. Martin Low[55] presented another argument against the proposed amendment, as follows (p. 21):

[52a] *Debates of the Senate*, 25 April 1889, pp. 605-606.

[53] *Ibid.*, p. 1385.

[54] Green, "Canadian Law and the Punishment of War Crimes," *Chitty's Law Journal*, vol. 28, September 1980, 249 at p. 251.

[55] Exhibit P-77, spring 1981.

> Furthermore, there is an argument that the restriction of Part II to offences committed after its proclamation is intended to operate as a safeguard, since its invocation is on proclamation by the Governor in Council, without any recourse to Parliament, unlike a treaty which at least must be tabled in Parliament.

Assuming that opening the door to all "prior" offences would be considered unwise, surely no one would object to an amendment limited to war crimes: the safeguard would then actually be built into the legislation itself.

The Commission, therefore, agrees with the suggested amendment: without the long process of treaty negotiations, it would permit extradition strictly for war crimes and without running afoul of the general policy of the Act. Though the phrase "war crimes" has not actually been used in the Act, there is no doubt that the crimes generally alleged against suspected war criminals fall under one or the other of the 22 categories of offences enumerated in schedule III of the Act, namely: murder, attempted murder, manslaughter, theft, rape, abduction, indecent assault, kidnapping, robbery and conspiracy.

iii) Another suggested remedy is deportation. But it cannot avail against a Canadian citizen. However, suspected war criminals have usually been granted the privilege of Canadian citizenship. The problem will be discussed below under the heading: Denaturalization and Deportation.

The Commission accordingly *RECOMMENDS* that

15- Section 36 of the *Extradition Act* (1970 R.S.C. c. E-21) should be amended in order to apply to crimes — limited to war crimes — committed before the Proclamation of Part II of the Act (this principle is already enshrined in s. 12 of Part I of the Act).

e) Addendum: offences of a political character

One more word would appear apposite.

Some may fear that attempts at extradition will always be frustrated by the plea that the alleged crimes were "of a political character".[56] This would be wrong.

War crimes have generally been committed against helpless victims: euthanasia, mass murders, general evictions, wanton destructions, etc. Those acts did absolutely not partake of "political disturbance", "physical struggle for the mastery of the government of the country", "avoidance of political persecution" which have been characterized by jurisprudence as the labels of political offences.

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[56] Section 22 of the Act.

In 1966, the authorities were reviewed by the Court of Appeal of Ghana which allowed, confirming the trial judge, the extradition request of the Federal Republic of Germany against one Dr. Horst Schumann.[57] The request was founded on the systematic killing of 30,000 inmates in medical institutions and concentration camps. The defence of "offences of a political character" was unanimously dismissed. The Chief Justice wrote (p. 437):

> It is clear beyond argument that the appellant's case is not covered by these principles. It is not his case that the poor helpless lunatics at the Munsungen Asylum or the Jews at Auschwitz had rebelled against the Nazi ideology and had thereby created some form of political disturbance which needed quelling, nor indeed does he claim to have committed the offence charged with a view to avoiding political persecution or prosecution.

Two years later, in 1968, the Queen's Bench Division in England was faced with the same question in **Re Gross, ex parte Treasury Solicitor.**[58] The examination of a witness in England was requested by the West German Ministry of Justice in support of the prosecution of four SS guards who were charged with murders in a concentration camp. The examination could not be ordered if, in the words of the Statute, the case involved "any criminal matter of a political character". The Court dismissed the objection and ordered the examination to take place. The Court commented (p. 810):

> One must look at the situation at the time when the offence was alleged to be committed. At that time the accused persons, so far from being at odds with the state or in political opposition to the existing government, were servants or officers of the government, and, insofar as they were actuated by political motives or by a political object or a political motive or were seeking furtherance of a political cause or campaign (assuming that the epithet "political" was apposite), it was the object, motive, cause or campaign which their own party or government was seeking to achieve.

But the "political offence" objection was given effect in 1984 by the District Court of New York in the context of the Northern Ireland struggle: **Doherty v. Government of the United Kingdom.**[59] Doherty, a member of the Provisional Irish Republican Army, was charged with the murder of a British Army Captain during an ambush. He escaped from prison and fled to the U.S.A. where he was arrested. The U.S. Court denied the extradition request presented by the United Kingdom; it held that the offence was "political" inasmuch as it had been committed in the course of an armed struggle by an organized group aiming at the overthrow of the political regime. But in the course of its discussion of the question, the Court made some comments which should be quoted at some length, because they throw an interesting light on how war crimes should be assessed:

(p. 274):

> How then is the political exception doctrine to be construed and what factors should limit its scope? Not every act committed for a political purpose or during a political disturbance may or should properly be regarded as a political offense. Surely the

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[57] (1966) 39 *I.L.R.* 433.

[58] (1968) 3 *All E.R.* 804 (Chapman, J.).

[59] (1984) 599 *Fed. Supp.* 270.

> atrocities at Dachau, Auschwitz, and other death camps would be arguably political within the meaning of that definition. The same would be true of My Lai, the Bataan death march, Lidice, the Katyn Forest Massacre, and a whole host of violations of international law that the civilized world is, has been, and should be unwilling to accept. Indeed, the Nuremberg trials would have no legitimacy or meaning if any act done for a political purpose could be properly classified as a political offense. Moreover, it would not be consistent with the policy of this nation as reflected by its participation in those trials, for an American court to shield from extradition a person charged with such crimes.
>
> The Court concludes therefore that a proper construction of the Treaty in accordance with the law and policy of this nation, requires that no act be regarded as political where the nature of the act is such as to be violative of international law, and inconsistent with international standards of civilized conduct. Surely an act which would be properly punishable even in the context of a declared war or in the heat of open military conflict cannot and should not receive recognition under the political exception of the Treaty.
>
> (. . .)

(p. 275):

> Whatever the precise contours of that elusive concept (political offense) may be, it was in its inception an outgrowth of the notion that a person should not be persecuted for political beliefs and was not designed to protect a person from the consequences of acts that transcend the limits of international law.

Those principles received application in the judgment rendered on 15 April 1985 by the District Court of the North District of Ohio in the matter of **Israel v. Demjanjuk.**[60] This was an extradition request based on "murder, malicious wounding, etc."; it is common knowledge that the respondent was sought for war crimes. Respondent raised the "political offense" exception provided for in art. VI (4) of the treaty between Israel and the U.S.A. The Court dismissed the plea and, in the course of a detailed discussion of the issue, said in part:

(p. 49)

> The murder of Jews, gypsies and others at Treblinka was not part of a political disturbance or struggle for political power within the Third Reich. The murders were committed against an innocent civilian population in Poland after the invasion of Poland was completed. No allegations have been advanced, or could be sustained, claiming that those Jews and non-Jews killed were part of an active attempt to change the political structure or overthrow the occupying government.
>
> (. . .)

(p. 50):

> Respondent's claim that the killing of defenseless civilians at Treblinka was part of the Nazi war effort, and therefore is political in character, is frivolous and offensive.
>
> (. . .)
>
> The crimes alleged are inconsistent with international standards of civilized conduct.
>
> (. . .)

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[60] Misc. no. 83-349, Northern District of Ohio, 15 April 1985.

(p. 51):

> The murdering of numerous civilians while a guard in a Nazi concentration camp, as part of a larger "Final Solution" to exterminate religious or ethnic groups, is not a crime of a "political character" and thus is not covered by the political offense exception to extradition.

All those comments in this recent jurisprudence apply generally to the suspected war criminals who are considered by the Commission.

The Commission therefore *FINDS* that

16- War crimes do not partake of the nature of "offences of a political character" and are not, as such, placed out of the reach of the extradition process.

As Mr. Narvey has rightly pointed out:[61] "Extradition remains the best way of bringing to justice alleged Nazi war criminals found in Canada, when it is available". It may not, however, be always available: Mr. Matas has called this "the extradition gap".[62] He has summed up the situation very succinctly:[63]

> There are, in Canada, alleged Nazi war criminals who are non-German. The crimes they were alleged to have committed were committed outside the present boundaries of the F.R.G. Canada does not have an extradition treaty with the country that has jurisdiction over the place of the crime. "Depending upon the particular circumstances of the case", the F.R.G. may not make an extradition request. In this sort of case, extradition is not a remedy.

This conclusion may be too hasty: the Commission has pointed out earlier the possibility of a recourse under the *Geneva Conventions Act*. Nevertheless, the option of prosecution in Canada remains open and raises many intriguing questions. To these we will now turn.

2) **Prosecution in Canada**

In March 1980, the Deputy Solicitor General wrote to his Minister:[64]

> No action can be initiated in Canada for the apprehension and prosecution of alleged war criminals . . .

In September 1980, Professor L.C. Green expressed the following view:[65]

> While it might be considered distasteful or even unjust that persons present in Canada against whom there is evidence of complicity in the commission of war crimes during the

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[61] Narvey, "Trial in Canada of Nazi War Criminals", 1983, 34 *C.R.* (3d) 126, p. 135.

[62] Exhibit P-69, p. 32.

[63] *Ibid.*, p. 33.

[64] Exhibit P-108, 6 March 1980, p. 3.

[65] Green, *op. cit.*, footnote 54, p. 253.

> Second World War should go unpunished, it seems clear that there is no basis in Canadian law as it now exists, and that includes the War Crimes Act, whereby such persons could be brought to trial.

In March 1981, the Interdepartmental Committee chaired by Mr. Martin Low summarized the opinion of the Department of Justice as follows:[66]

> The view of the Department of Justice is that as a matter of law, prosecution, either under a revised *Criminal Code* or under the existing or a revised *War Crimes Act*, is not a credible policy option for resolving the issue of war criminals.

In March 1983, the then Solicitor General of Canada, Honourable Robert P. Kaplan, stated before the Justice and Legal Affairs Committee of the House of Commons:[67]

> But no country has a perfect system of justice; and one of the limitations in this particular case, in dealing with these individuals, is the fact that there is no present legislation that permits a totally domestic remedy to be imposed.

Finally, in April 1983, the Ontario Court of Appeal wrote in **Rauca**,[68]

> ... like the Chief Justice of the High Court, we are not persuaded that there is, at present, a right to prosecute the appellant for the recited crimes in Canada.

There is, therefore, a highly respectable body of opinion in Canada that the law as it now stands does not allow for the prosecution of war criminals.

But the Commission has heard impassioned pleas to the contrary; and Mr. Matas who, with Mr. Bert Raphael, Q.C., had appeared before the Court of Appeal in **Rauca** on behalf of the intervenant Canadian Jewish Congress, wrote pointedly in his brief:[69]

> The Canadian Jewish Congress did appear as an intervenant in the Ontario Court of Appeal, but the extent of its intervention was limited by the Court. The Congress wished to argue in Court that prosecution was possible, but was ordered by the Court not to argue that proposition.
>
> The Ontario Court of Appeal did not state categorically that prosecution was not possible in Canada. The Court repeated, twice, only that it was "not persuaded" that prosecution was possible. In view of the fact that it heard argument for only one side, that prosecution was not possible, but refused to hear argument for the other side, that prosecution was possible, it is hardly surprising that it was not persuaded by the argument it refused to hear.

The Commission proposes therefore to examine the matter afresh. Several issues must be addressed which the Commission will consider as follows:

a) Under present law

    1. Canadian law

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[66] Exhibit P-77, p. 25.

[67] *Minutes of Proceedings and Evidence of the Standing Committee on Justice and Legal Affairs*, No. 124, 17 March 1983, p. 26.

[68] See footnote 10, this chapter, p. 245.

[69] Exhibit P-69, p. 75.

- i) *Criminal Code*
- ii) *War Crimes Act*
- iii) *Geneva Conventions Act*

2. International law
    - i) Conventional international law
    - ii) Customary international law

b) Under amendments to the law

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a) Under present law

1. Canadian law
    - i) *Criminal Code*

There are two governing provisions in the *Criminal Code*:[70]

> [s. 5(2)] Subject to this Act or any other Act of the Parliament, no person shall be convicted or discharged under section 662.1 of an offence committed outside Canada.
>
> [s. 8(a)] Notwithstanding anything in this Act or any other Act, no person shall be convicted or discharged under section 662.1
>
> (a) of an offence at common law.

Outside of s. 281.1,[71] which deals with genocide and has obviously no retroactive effect to the last war, the *Criminal Code* contains no provision relevant to the prosecution in Canada of the authors of Nazi war crimes.

Yet it is argued that prosecution is nevertheless possible at common law.[72]

The argument is premised on the postulate that "war crimes are common law offences in Canada": this basic submission already needs, and lacks, a convincing demonstration.

Then the argument tries to get around the prohibition of s. 8(a) by introducing into the latter a distinction between common law offences which are prescribed by international law and those which are not: war crimes would fall into the first category, again mainly on the strength of the author's *ipse dixit*.

Finally, the same proponent of this submission calls in aid the *Canadian Charter of Rights and Freedoms* and argues that it supercedes, *by implication*, s. 8(a) of the *Criminal Code*.

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[70] (1970) R.S.C., c. C-34.

[71] Added to the *Criminal Code* by 1970 R.S.C., c. 11 (1st Supp.), s. 1.

[72] Exhibit P-69, p. 65 *ff*.

On the face of it, the whole argument is extremely fragile; it draws its strength from a postulate followed by an unsubstantiated distinction leading to an implied abrogation: it takes more than that to carry the conviction that, when Parliament enacted s. 8(a) of the *Criminal Code*, it wanted, without so saying, to preserve a right at common law which furthermore had not been exercised even once since World War II.

Also, whilst s. 426 of the *Criminal Code* provides that "every superior court of criminal jurisdiction has jurisdiction to try any indictable offence", it must be read together with s. 5(2): "No person shall be convicted in Canada for an offence committed outside of Canada."

It is not easy, to say the least, to find, in the absence of any statutory provision, a foundation for either the existence of the offence or the jurisdiction of a competent court. Indeed, the Commission is convinced that there is no basis on which a court in Canada could or would establish such a prosecuting mechanism so foreign to the present state of the law both as to substance and as to procedure.

However, in his brief of 22 August 1986, Mr. Narvey discusses at great length a new argument which occurred to him "only during the last several weeks": it is drawn from s. 746 of the *Criminal Code* of 1953-1954 and aims at showing that war crimes can be prosecuted under the *Criminal Code* as it now exists.

The basic premise of the submission in Mr. Narvey's brief is that s. 746 has survived the entry into force of the 1970 general revision of the Canadian statutes and has still effect in Canada.[73]

Section 746 reads:

> 746. (1) Where proceedings for an offence against the criminal law were commenced before the coming into force of this Act, the offence shall, after the coming into force of this Act, be dealt with, inquired into, tried and determined in accordance with this Act, and any penalty, forfeiture or punishment in respect of that offence shall be imposed as if this Act had not come into force, but where, under this Act, the penalty, forfeiture or punishment in respect of the offence is reduced or mitigated in relation to the penalty, forfeiture or punishment that would have been applicable if this Act had not come into force, the provisions of this Act relating to penalty, forfeiture and punishment shall apply.
>
> (2) Where proceedings for an offence against the criminal law are commenced after the coming into force of this Act the following provisions apply, namely,
>
> (a) the offence, whenever committed, shall be dealt with, inquired into, tried and determined in accordance with this Act;
>
> (b) if the offence was committed before the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorized or required to be imposed by this Act or by the law that would have applied if this Act had not come into force, whichever penalty, forfeiture or punishment is the less severe; and

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[73] (1970) R.S.C. 2nd Supp., Appendix B, Schedule A, p. 411; *History and Disposal of Acts*, pp. 443 and 486; 1964-1965 S.C., c. 48.

> (c) if the offence is committed after the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture, or punishment authorized or required to be imposed by this Act.

Based on the above-mentioned premise, the reasoning then unfolds as follows:

a) s. 746 deals with "offences against the criminal law" of Canada;

b) violations of the laws or usages of war are offences against the criminal law;

c) the *War Crimes Act* could have been enacted under either one or both of s. 91(7) — Military and Defence — or s.91(27) — Criminal Law — of the *Constitution Act 1867*;

d) hence war crimes can be tried either under the *Criminal Code* or under the *War Crimes Act*;

e) Mr. Narvey concludes as follows (p. 66):

> The above discussion of venue also shows that trial under s. 746, as incorporating the words "at any place" from Regulation 6(1), meets the requirements of s. 5(2) of the *Code* for trial in Canada of an offence committed outside Canada, namely that the trial be pursuant to an Act or Acts of the Parliament of Canada.
>
> The above interpretation of s. 746 also avoids any conflict with s. 8 of the *Code*. Trial under s. 746 would not be for a common law, British, or pre-Confederation offence, as mentioned in s. 8, but for an offence against the criminal law, as mentioned in s. 746 and interpreted above.

Intriguing and attractive at first, the argument follows quite a circuitous road — "circular", admits Mr. Narvey at p. 54; but it suffers from a fatal flaw stemming from a failure to grasp correctly the basic legislative scheme of statute revision.

Considerable stock is made by Mr. Narvey of the mentions which appear in certain tables annexed to the 1970 Revised Statutes. But the Statute Revision Commission and its six Commissioners could not prepare any kind of table: they found their authority in the *Act Respecting the Revised Statutes of Canada*.[74] Section 4 of that Act provides:

> There shall be appended to the Roll a Schedule A similar in form to the Schedule A appended to the Revised Statutes of Canada, 1952; and the Commission may include in the Schedule all Acts and parts of Acts that, though not expressly repealed, are superseded by the Acts so consolidated, or are inconsistent therewith, and all Acts and parts of Acts that were for a temporary purpose, the force of which is spent.

The Revision Commission has actually prepared that Schedule A, from which it first appears that, upon the 1970 Revised Statutes entering into force, including the revised *Criminal Code*, c. 51 of the 1953-1954 Statutes, i.e., the *Criminal Code*, is repealed *in toto*, save for s. 746 and s. 751. What has happened to those sections? The Revision Commission indicates in its table entitled "History and Disposal of Acts" that the two sections were "not repealed and not consolidated"; in French: "*ni abrogé ni refondu*". So the two sections are identified by the symbol "NC/NR".

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[74] (1965) 13-14 El. II, c. 48.

It is interesting to note that, in other appropriate cases, the Revision Commission uses the abbreviation "Om." which means: "omitted or repealed by Revision (Spent)".

Again, however, those statements by the Revision Commission find their basis and their meaning in the law; and one must go back to the above-quoted s. 4 of c. 48.

The decision not to consolidate part of a law and to mark it "Om.", i.e., spent, is based on the last part of s. 4 which authorizes the Revision Commission to include in the Schedule "all Acts and parts of Acts that were for a temporary purpose, the force of which is spent". Good examples are s. 745 and s. 747 of the *Criminal Code* which had, in turn, repealed previous Acts.

The decision not to consolidate part of a law and to mark it "NC/NR" is based as well on the previous part of s. 4 which authorizes the Revision Commission to include in the Schedule "all Acts and parts of Acts that, though not expressly repealed, are superseded by the Act so consolidated, or are inconsistent therewith". A good example of this is s. 746 of the *Criminal Code*. Section 746 may not be expressly repealed: that does not mean that it continues in force and would be applicable today. To use the very words of s. 4: in the expert judgment of the members of the Statute Revision Commission, s. 746 has become inconsistent with the *Revised Criminal Code* of 1970 or, at the very least, it is superseded by the new Code. The French text of s. 4 is still clearer. It refers to the Acts: "*qui, même si elles ne sont pas expressément abrogées, sont remplacées par les lois ainsi codifiées ou sont incompatibles avec elles,*".

In other words, s. 746 died a quiet death on the day the *1970 Revised Statutes* were born.

That is easily understandable when one keeps well in mind the nature of s. 746 itself. This is a provision which had obviously not been designed to achieve the task which Mr. Narvey would assign to it now. The marginal note says that s. 746 is "transitional". That is no doubt the reason why it was neither repealed nor consolidated in 1970. But surely its framers — and Parliament — never envisaged that it could be used to assure a "transition" over a period of half a century. The Revision Commissioners simply acted according to reason. Section 746 cannot now be called in aid to help prosecute war criminals.

The Commission accordingly *FINDS* that

17- No prosecution for Nazi war crimes can be successfully launched under the *Criminal Code* as it now stands.

ii) *War Crimes Act*[75]

On 8 February 1980, the then Minister of Justice and Attorney General of Canada, Honourable Jacques Flynn, wrote to the Executive Vice-President of the Canadian Jewish Congress:[76]

> For these reasons, I would not seek to invoke the *War Crimes Act* for the purpose of prosecuting alleged war criminals in Canada in respect of events that took place outside Canada.

A year later the Interdepartmental Committee chaired by Mr. Martin Low concluded:[77]

> The Department of Justice is of the view that it is doubtful that the legislation is applicable to a trial in Canada of a civilian person. The Department of Justice consequently has concluded that the *War Crimes Act* could not now be successfully invoked as a basis for a military trial in Canada, of a Canadian citizen or resident, for offences allegedly committed outside Canada against non-Canadians.

The Commission must now examine the reasons which have apparently prompted those expressions of opinion and which led Professor Jacques Bellemare, in the study which the Commission had entrusted to him, also to conclude (p. 17):

[Translation]

> Given all the limitations which are built into a prosecution under the *War Crimes Act*, as well as all the reservations which we have expressed previously, it appears to us extremely doubtful that a Nazi war criminal currently residing in Canada could be prosecuted under the Act.

Indeed, the Commission has been flooded with a number of briefs in support of the contrary view by the Canadian Jewish Congress and by Messrs. Cotler, Matas, Narvey, Richler and Silverstone. One wonders how such a debate can arise.

The *War Crimes Act* is a short piece of legislation. It contains only three sections which in their entirety read as follows:

> 1. The War Crimes Regulations (Canada) made by the Governor in Council on the thirtieth day of August, one thousand nine hundred and forty-five, as set out in the Schedule to this Act, are hereby re-enacted.
> 2. This Act shall be deemed to have come into force on the thirtieth day of August, one thousand nine hundred and forty-five, and everything purporting to have been done heretofore pursuant to the said Regulations shall be deemed to have been done pursuant to the authority of this Act.
> 3. This Act shall continue in force until a day fixed by proclamation of the Governor in Council and from and after that date shall be deemed to be repealed.

The Act has never been repealed.

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[75] (1946) 10 George VI, c. 73.

[76] Exhibit P-108.

[77] Exhibit P-77, p. 11.

Apart from the one-year retroactivity provided for by s. 2, the whole substance of the Act is found in the schedule which contains the ***War Crimes Regulations (Canada)***. They run for six thickly-printed pages. A summary is in order.

First of all, the definition of "war crime" must be noted:

> "war crime" means a violation of the laws or usages of war committed during any war in which Canada has been or may be engaged at any time after the ninth day of September, 1939.[78]

The Act therefore applies only to war crimes ***stricto sensu***: "It is quite clear that the War Crimes Act applies to war crimes, but not to crimes against humanity."[79]

In short, the Regulations provide as follows:

4(1): Convening of military courts by an officer commanding Canadian forces "in the field or in occupation of enemy territory or otherwise";

5: Military courts are assimilated to field general courts-martial;

6(1): The convening officer may direct the arrest of a suspected war criminal then within the limits of his command;

6(3): The accused shall have no right to evidence under oath or to cross-examination at the summary hearing;

8: The accused cannot object to any member of the court nor plead to the jurisdiction of the court;

9: Prosecutor and accused are allowed the right to counsel;

10(1): Oral or written evidence otherwise inadmissible can be admitted;

10(3,4 and 5): Presumption on *prima facie* evidence of collective or vicarious criminal responsibility;

11(1): Sentences include the death penalty;

14: Mitigation of sentence is in the hands of "the senior combatant officer of the Canadian Forces in the theater in which the trial took place."

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[78] Regulation 2 (f).

[79] Brief of Canadian Jewish Congress, p. 55.

No one can conceivably deny that this is legislation designed for military trials in times of war. Indeed, it served as the legal basis for the four war crime trials, involving seven accused, which Canada held in Germany shortly after the end of the war.[80]

Forty years later, it is argued that this legislation should be used, in times of peace, to arrest and bring a Canadian citizen or resident before a military court in Canada and to try him for an offence committed abroad, on the basis of *ad hoc* rules of evidence and under threat of the death penalty! What more eloquent indictment could there be of that process? It would fly in the face of our most cherished liberties and our most precious institutions. As Professor Green aptly noted:[81]

> Assuming such peremptory action to have been taken, it may be presumed that every civil and human rights organization in the country would leap to the defence of the person involved.

War crimes, heinous as they may be, must not be allowed to sway our faith in, and our respect for, the supreme law of the land:[82]

Canadian Bill of Rights[83]

dignity and worth of the human person;

respect for the rule of law;

right to life and liberty;

right to due process of law;

right to protection of the law;

protection against cruel and unusual punishment;

right to a fair hearing in accordance with the principles of fundamental justice;

right to bail;

Canadian Charter of Rights and Freedoms

right to life and liberty;

right not to be deprived thereof, except in accordance with the principles of fundamental justice;

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[80] Cattanach, evidence, vol. II, p. 185.

[81] Green, *op. cit.*, footnote 54, p. 253.

[82] *Canada Act 1982*, s. 52(1).

[83] (1960) 8-9 Elizabeth II, c. 44.

right to be tried within a reasonable time;

right to bail;

right to trial by jury;

protection against cruel and unusual punishment.

All those goals which Canadian society has set for itself can certainly not be achieved by short-circuiting the legal process in the name of the hunt for Nazi war criminals. The Commission shares the view which Professor Maxwell Cohen expressed in his letter to the Honourable David Crombie:[84]

> It would be, perhaps, difficult to conceive of such a military or quasi-military court, under this 1946 Act, being applied to Canadian residents or citizens at this time.

Yet, serious people have piled up mountains of arguments in favour of the use of the *War Crimes Act*: the Commission will now examine those which appear to deserve of study. There are three of them; they are not necessarily listed by order of importance.

The *first* argument draws from authority: in **MacKay v. The Queen**[85] the Supreme Court of Canada held that the trial of a soldier by a standing court-martial, in a narcotics matter, had been fair, and that the Court had met the required criteria of impartiality.

That judgment, however, is not conclusive of the question in matters of war crimes, where a civilian is put on trial. In **MacKay,** which involved ordinary criminal offences, tradition could be called in aid: McIntyre J. wrote (p. 403):

> From the earliest times, officers of the armed forces in this and, I suggest, all civilized countries have had this judicial function. It arose from practical necessity and, in my view, must continue for the same reason.

Of course no such tradition exists with respect to civilians, and **MacKay** cannot be considered as a binding precedent, should a court-martial attempt to try a civilian.

One can, furthermore, contrast with profit the judgment of the Supreme Court of the United States in **Toth v. Quarles.**[86] A former serviceman, returned to civilian life, was arrested by the military under a charge of murder and taken to Korea for trial by a court-martial. The Supreme Court quashed the proceedings and declared unconstitutional the Act of Congress allowing for the court-martial of a civilian. In the course of his opinion on behalf of the majority, Mr. Justice Black said:

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[84] Exhibit P-87, letter of 2 January 1981, p. 4.

[85] (1980) 2 *S.C.R.* 370.

[86] (1955) 350 U.S. 11.

(p. 17)

> . . . conceding to military personnel that high degree of honesty and sense of justice which nearly all of them undoubtedly have, it still remains true that military tribunals have not been and probably never can be constituted in such way that they can have the same kind of qualifications that the Constitution has deemed essential to fair trials of civilians in federal courts.

(p. 22)

> There are dangers lurking in military trials which were sought to be avoided by the Bill of Rights and Article III of our Constitution. Free countries of the world have tried to restrict military tribunals to the narrowest jurisdiction deemed absolutely essential to maintaining discipline among troops in active service.

The Commission is of the opinion that the argument, in support of the *War Crimes Act*, based on authority is neither compelling nor persuasive.

The *second* argument is based on the Statute and Regulations.

Civilians in Canada could be subjected to the Act as a result of the interplay of the following provisions of the Regulations:

2(c): Convening officer;

4(1): Convening officer;

6(1): Power of arrest.

The argument follows the following course: a military court may be convened in principle by "[a]ny Canadian flag, general or air officer commanding any Canadian forces, wherever such forces may be serving, whether in the field or in occupation of enemy territory or otherwise." The convening officer may direct the arrest of a suspected war criminal, provided he be "a person then within the limits of his command or otherwise under his control". Those definitions cover all commands in Canada.

But, over and above the quite logical interpretation of Regulation 4(1), that its "wherever" must be restricted to the actual theater of war because of the following "whether", the reasoning is affected by a fatal flaw: the limits of command of the military in Canada do not encompass Canadian civilians who are not otherwise subject to military jurisdiction; it would be an unwarranted and unprecedented assumption of jurisdiction by the military to try and bring a civilian in Canada before a military court under Regulation 5. Thus, Williams and Castel conclude: "War criminals presently in Canada do not fall within the jurisdiction of a convening officer."[87]

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[87] Williams and Castel, *op. cit.*, footnote 3, this chapter, p. 169.

[88] Paper of 8 July 1981, submitted to the Commission, p. 13.

Jonathan Richler reaches the same conclusion in other words:[88]

> However, for those persons who are alleged to have committed war crimes during the Second World War and who presently reside in Canada as civilians, I would submit that their arrest and trial by a Canadian military court convened under the Regulations is not authorized.
>
> (. . .)
>
> Such persons are now subject to Canadian legislation and, in their newly acquired status of Canadian civilian, are protected by the *National Defence Act* (prior to 1950, the *Army Act* and Rules of Procedure) from being subjected to military proceedings and may now only be tried by civilian courts.

The *third* argument tends to validate the exclusion of a jury trial under the Act. It is rendered necessary in view of the protection afforded generally by s. 11 (f) of the *Canadian Charter of Rights and Freedoms*:

> Any person charged with an offence has the right
>
> (. . .)
>
> (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment.

The proponents of this argument submit that the Act falls under the exception relative to "an offence under military law tried before a military tribunal".

That the trial take place before a military tribunal, that observation is undoubtedly sound. But that the "war crime" be an "offence under military law" is far less certain: it includes, for instance, deportation of civilian population to slave labour, which is unknown to military law.[89]

Mr. Matas takes stock of the distinction between "military offences" and "strictly military offences".[90] War crimes fall, according to him, into the first category. Yet according to his own quotation from Professor Schultz, it is the second category that comprises "offences against the rules of military order and discipline" or, in the words of the Charter, "offences under military law".

Indeed, Mr. Matas writes further on that "war crimes . . . are offences against ordinary criminal law, judged by military tribunals". Assuming this statement to be correct, it certainly does not square with the exception in s. 11(f) of the Charter.

The Ontario Court of Appeal was right when it wrote in **Rauca:**[91]

> Further, a proceeding against the appellant under that Act could run afoul of s. 11(f) of the Charter which guarantees, except in the case of an offence under military law tried before a military tribunal, the right to a trial by jury where the maximum punishment for the offence is imprisonment for five years or more.

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[89] *National Defence Act*, 1970 R.S.C., c. N(4), including Code of Service Discipline.

[90] Exhibit P-69, p. 90.

[91] See footnote 8, this chapter, pp. 245-246.

Thus, none of the arguments which are put forward in support of the modern use of the *War Crimes Act* succeeds in achieving its purpose. The Commission shares the view expressed in his brief by Mr. John I. Laskin (p. 24): "the procedures under the *War Crimes Act* would not stand up to the legal guarantees in the Charter. The Act is essentially an out-dated piece of legislation enacted at another time and for another purpose."

The Commission accordingly *FINDS* that

18- No prosecution for Nazi war crimes can be successfully launched under the *War Crimes Act* (1946, 10 George VI, c. 73) as it now stands.

iii) *Geneva Conventions Act*[92]

This is still another vehicle that has been advocated in certain quarters as a means to bring war criminals to justice in Canada. But again opinions are divided, and an analysis of the opposing views is indicated.

There is no necessity of coming back to the particulars of this legislation: we have already seen that this Act was adopted by Canada in 1965, and that Canada thus brought into its domestic law the four Conventions to which it is a party and which it had signed in Geneva in 1949 with a view to alleviating the evils of war for both military and civilians.

The Act provides for trial in Canada of the authors of the "grave breaches" defined in the Conventions, should any such breach, had it been committed in Canada, be an offence under Canadian law. The question is: can the Act of 1965 and the Conventions of 1949 be used to punish crimes committed during World War II? — in other words, do the Act and the Conventions have a retroactive effect?

Both the Act and the four Conventions are silent on their application in time. The matter falls, therefore, to be determined in accordance with the general principles of statutory construction. The answer would be simple, had Parliament stated clearly its intention that the Act be retroactive not only to the date of the Conventions, i.e., 1949, but even to the beginning of World War II. However, Parliament did not so state, and the proponents of retroactivity are left to their interpretation effort.

The Commission is not impressed by the argument of Messrs. Silverstone, Narvey and Cotler that a retroactive character is given to the Act through the use of the past tense in ss. 3(2): "Where a person has committed an act or omission that is an offence, etc.". True, this provision contemplates an application to past events but, read together with ss. 3(1), it cannot be retroactive, at most, prior to 1949. Still more logical appears Maxwell's comment that "the form 'has been' was 'often used to refer, not to a past which preceded the enactment, but to a time which will have become a past time only when the event occurs on which the statute is to operate'."[93]

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[92] (1970) R.S.C., c. G(3).

Actually, the main argument in favour of the retrospective effect of the *Geneva Conventions Act* is derived from the distinction between substantive and procedural enactments. According to Messrs. Cotler, Matas, Narvey and Silverstone, the Act is not substantive inasmuch as it does not create new offences; it is merely procedural in that it provides a new forum for trying offences already known to the law. Since nobody has a vested right in procedure, and a change in the rules is always effective at once, unless the law says otherwise, the *Geneva Conventions Act* should be "a convenient legislative vehicle"[94] to prosecute war criminals.

On the surface, the argument is attractive; but it passes lightly over other elements which would be essential to give it weight.

We are dealing here in the field of criminal law; the courts are particularly reluctant, and rightly so, to give to an enactment a retroactive effect unless the law, or its implied meaning, be quite clear on the point. For instance, if a right of appeal is granted whilst a criminal prosecution is pending, the accused cannot take advantage of that right after his conviction.[95]

Furthermore, the matter does not really involve a strict question of procedure. What we are rather concerned with is the jurisdiction of Canadian courts: such is not, and cannot be, a simple matter of procedural rules; it goes to the root of the legal system and, as such, partakes of substantive law.[96]

Finally the Act itself — which should not be lost sight of during this discussion — offers no indication of a retroactive intention on the part of Parliament; rather the contrary. The situation gets still clearer where the Act is appreciated in the light of its four Schedules. Such is not only a permissible process, but under the circumstances, an obviously mandatory one. Professors Emanuelli and Slosar write:[97]

[Translation]

> As a result of the process by which conventional international law is transformed into domestic law, an international convention becomes a part, directly or indirectly, of this

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[93] Langan, ed., *Maxwell On Interpretation of Statutes*, (12th ed.), Sweet & Maxwell, London, 1969, p. 219.

[94] Silverstone, *op. cit.*, footnote 39, p. 14.

[95] Côté, *The Interpretation of Legislation in Canada*, Les éditions Yvon Blais Inc., Cowansville, 1984, p. 141. **The Colonial Sugar Refining Company, Limited v. Irving,** [1905] A.C. 369 (P.C.); **Doran v. Jewell** (1914), 49 *S.C.R.* 88; **Singer v. The King,** [1932] *S.C.R. 70;* **Boyer v. the King,** [1949] *S.C.R.* 89; **The Royal Bank of Canada v. Concrete Column Clamps (1961) Ltd.,** [1971] *S.C.R.* 1038 at 1040; **R. v. Antoine** (1983), 41 O.R. (2d) 607 at 613 (C.A.).

[96] Côté, op. cit., p. 140; see also authorities quoted in footnote 95.

[97] Emanuelli and Slosar, "L'application et l'interprétation des traités internationaux par le juge canadien", 1978, 13 *R.J.T.* no. 1, 69, p. 76.

> [national] context and it then becomes legitimate for the judge to refer to the convention for purposes of construction of a statute.

Indeed, that is what the Supreme Court of Canada did when it interpreted the *Copyright Act of Canada* in light of the *Convention of Rome* which was reproduced as its third schedule in the case of **CAPAC v. C.T.V. Television Network Limited et al.**[98]

Now art. 2 of each of the four *Geneva Conventions* provides as follows:

> In addition to the provisions which *shall* be implemented in peacetime, the present Convention *shall* apply to all cases of declared war or of any other armed conflict which *may* arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.
>
> The Convention *shall* also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.
>
> Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto *shall* remain bound by it in their mutual relations. They *shall* furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

(emphasis added)

There could scarcely be expressed a clearer intention that the Conventions would apply to events posterior to their signature. As a minimum conclusion, there could scarcely be a case where it would be more difficult to deduce, from the text, an implied intention of retroactive application.

The Canadian Jewish Congress showed, in its submission on the point, a significant and healthy hesitation:[99]

> If this argument [retroactivity] is right, the prosecution under the Geneva Conventions Act of a Nazi war criminal may well succeed. There is little doubt that an accused prosecuted under the Act would raise as a defence that the Act was meant to apply only to war crimes committed after March 18, 1965. The Committee is of the opinion that the better course of action would be, rather than to prosecute under this Act, to prosecute under new legislation, of the sort described later in this report, not open to this defence.

The Commission is comforted in its conclusion by many opinions which have been conveyed or quoted to it. The Commission will briefly refer to them in chronological order.

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[98] (1968) *S.C.R.*, 676, p. 682.

[99] Brief, footnote 79, this chapter, p. 52.

Professor L.C. Green:[100]

> This means that persons accused in relation thereto could not be charged with grave breaches as these are defined under the 1949 Geneva Conventions, for these did not become operative for Canada until the enactment of the Geneva Conventions Act 1964-65 c 44.

Williams and Castel:[101]

> Were it not that the Act and the Conventions are not retroactive . . .

Jonathan Richler:[102]

> Nevertheless, problems of retroactivity arise in two senses. First, the Geneva Conventions were only adopted in 1949. There is, therefore, some doubt as to whether they can be made to apply to offences committed during the Second World War. This objection could perhaps be met by adopting the position that the Conventions were not new law but merely declaratory of existing law and custom. Secondly, the *Geneva Conventions Act* which was the vehicle by which the Conventions were incorporated into Canadian law was not enacted until 1965 and is not retrospective. This needless to say, presents a formidable barrier to prosecution under this Act.

Interdepartmental Committee:[103]

> The Conventions themselves do not apply retroactively to offences committed during World War II and the legislation does not, as a result, provide any basis for action in Canada against alleged war criminals.

Court of Appeal of Ontario in **Rauca:**[104]

> Not only is the Geneva Conventions Act not a statute of general application but it is a piece of substantive law which does not have a retroactive effect.

Professor Jacques Bellemare, in his study for the Commission, concluded as follows:

[Translation]

> Thus it appears clear to us that the Geneva Conventions and the Canadian enforcing Act have been designed for the future only and cannot serve as a basis for prosecuting Nazi war criminals.

Finally, in his own study for the Commission Mr. Laskin concluded (p. 29) that "the *Geneva Conventions Act* is not available to prosecute war crimes which took place during World War II."

For all those reasons the Commission *FINDS* that

19- No prosecution for Nazi war crimes can be successfully launched under the *Geneva Conventions Act* (1970 R.S.C., c. G-3) as it now stands.

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[100] Green, *op. cit.*, footnote 54, this chapter, p. 251.

[101] Williams and Castel, *op. cit.*, footnote 3, this chapter, p. 174.

[102] Richler, *op. cit.*, footnote 88, this chapter, pp. 6 and 7.

[103] Exhibit P-77, p. 11.

[104] See footnote 8, this chapter, p. 245.

2. International Law

The question is whether war criminals can be prosecuted in Canada by virtue of international law alone. This question must be dealt with under its two aspects: conventional international law (under treaties, conventions and other agreements) and customary international law (under usage or custom, or general principles).

i) *Conventional international law*

It is well settled in Canada that ". . . without the sanction of Parliament, the Crown cannot alter the existing law by entering into a contract with a foreign power".[105]

The Judicial Committee of the Privy Council later stated very clearly the doctrine as to the respective fields of endeavour of the executive and the legislative branches: "Within the British Empire there is a well-established rule that the making of a treaty is an executive act, while the performance of its obligations, if they entail alteration of the existing domestic law, requires legislative action. Unlike some other countries, the stipulations of a treaty duly ratified do not within the Empire, by virtue of the treaty alone, have the force of law."[106]

In the Supreme Court of Canada, Madame Justice Wilson took the opportunity of commenting on that aspect of the law in **Operation Dismantle Inc. et al. v. Canada et al.**:[107]

> A treaty, therefore, may be in full force and effect internationally without any legislative implementation and, absent such legislative implementation, it does not form part of the domestic law of Canada. Legislation is only required if some alteration in the domestic law is needed for its implementation.

It has, indeed, been stated recently that [translation] "296 treaties ratified by Canada did not require specific legislation by the Parliament of Canada for their implementation".[108] This does not detract, however, from the principle. It is clear that, even though Canada be a party to an international agreement providing for a right to prosecute war criminals, this agreement in itself is not sufficient to create such a remedy under Canadian law: domestic implementing legislation is necessary. As from then, however, it is not in the international instrument, but in this legislation itself that the prosecution will find its true foundation.

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[105] By J. Lamont, in the Supreme Court of Canada, **Re: Arrow River and Tributaries Slide and Boom Co. Limited v. Pigeon Timber Co. Limited,** (1932) *S.C.R.* 405, p. 510.

[106] **Attorney General for Canada v. Attorney General for Ontario,** (1937) *A.C.* 326, p. 347. See also Macdonald, "International Treaty Law and the Domestic Law of Canada", *Dalhousie Law Journal*, 2, 1975-76, 307; Brun et Tremblay, *Droit constitutionnel*, 1982, p. 451; Emanuelli and Slosar, "L'application et l'interprétation des traités internationaux par le juge canadien", 1978, 13 *R.J.T.* no. 1, 69; **Francis v. R.,** (1956) *S.C.R.* 618; **Collin et al v. Kaplan,** (1983) 1 *F.C.* 496, at 499; **Vincent v. Minister of Employment and Immigration,** 48 *N.R.* 214, (1983) F.C.A., p. 217 and p. 221.

[107] (1985) 59 *N.R.* 1, p. 50.

[108] Rigaldies and Woehrling, "Le droit interne canadien et le droit international", 1980, 21 *Cahiers de droit* 293, p. 314, footnote 64.

Now there are not many such international agreements supplemented by national legislation creating a right of prosecution against war criminals in Canada; actually, only two have been drawn to the attention of the Commission: the *Geneva Conventions* and the *Convention on the Prevention and Punishment of the Crime of Genocide*. The former have been introduced into Canadian law by the *Geneva Conventions Act*;[109] the latter has led to the adoption of s. 281.1 of the *Criminal Code*.

However, substantial obstacles lie in the path of those who advocate the use of those pieces of legislation: firstly, they do not directly relate to war crimes. But assuming that this first obstacle could be overcome through the argument of analogy, they do not profess to be retroactive to World War II. Both laws were enacted several years later (in 1965 and 1970 respectively) and they contain no retroactive provision: in particular, the Commission is unable to discern such an intention in the wording of s. 3(2) of the *Geneva Conventions Act*.

In the opinion of the Commission, conventional international law cannot support the prosecution of war criminals in Canada.

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ii) *Customary international law*

In contradistinction with the law under treaties or conventions, customary international law does become part of domestic law without the necessity of implementing legislation, saving the cases of conflicting statute law or of well-established rules of common law.

In England, the Court of Appeal has, by a majority opinion, explicitly acknowledged and sanctioned that position in 1977 in **Trendtex Trading Corporation Limited v. Central Bank of Nigeria.**[110] The Court was dealing with the customary international law of sovereign immunity. Lord Denning wrote (p. 889):

> As between these two schools of thought, I now believe that the doctrine of incorporation is correct. Otherwise I do not see that our courts could ever recognise a change in the rules of international law. It is certain that international law does change. I would use of international law the words which Galileo used of the earth: "But it does move." International law does change, and the courts have applied the changes without the aid of any Act of Parliament.
>
> (. . .)

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[109] (1970) R.S.C., c. G-3.
[110] (1977) 1 *All E.R.* 881.

> Seeing that the rules of international law changed — and do change — and that the courts have given effect to the changes without any Act of Parliament, it follows to my mind inexorably that the rules of international law, as existing from time to time, do form part of our English law.

In Canada, judicial pronouncements have not been as clear.[111] But rather than entering into a detailed study of the jurisprudence and learned commentaries, the Commission is satisfied with referring to the comprehensive analysis published in 1983 by Professors Maxwell Cohen and Anne F. Bayefsky.[112] The Commission shares the conclusion therein expressed "that the Canadian view of the relation of customary international law and municipal law is adoptionist" (p. 279).

For our purposes, however, that is only the first step in our examination of the matter of war crimes in Canada, in light of customary international law.

A further distinction is called for which, thin as it may appear at first glance, is bound to acquire a growing importance as the analysis of the topic progresses: it is the distinction between law as embodied in custom as such and law as embodied in the general principles recognized by the community of nations.

It is not easy — the Commission is even prepared to go as far as to say it is not possible — to state positively that international law has established, by custom, a right of prosecution of which Canada could avail itself against war criminals. The Supreme Court of Canada has recently considered the question of custom in international law in the **Newfoundland Continental Shelf Reference.**[113] The Supreme Court stated (p. 118): "In order to constitute a custom there must be substantial uniformity or consistency, and general acceptance."

In the context of the Newfoundland case, the Court then concluded (p. 124): "We think that in 1949 State practice was neither sufficiently widespread to constitute a general practice nor sufficiently consistent to constitute settled law."

Applying those principles to the question of war crimes and without entering into an unduly long demonstration, it should suffice to say that universal jurisdiction is far from being generally recognized and that the practice of states is rather lacking in eloquence when one embarks upon an attempt at examining the various forms which, according to the International Law Commission,[114] state practice can take, namely: treaties, decisions of international and national courts, national legislation, diplomatic correspondence, opinions of national legal advisors, and practice of international organizations. The poverty of those sources is blatant and obviously does not meet the standard necessary for the establishment of a customary rule at international law. In any event, even were it not so, the prohibition enacted in s. 8 of the *Criminal Code* against common law offences would remain.

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[111] See, for instance, "The Embassies Reference", (1943) S.C.R. 208 and "The Armed Forces Reference", (1943) S.C.R. 483, *passim*.

[112] Cohen and Bayefsky, "The Canadian Charter of Rights and Freedoms and Public International Law", 61 *Canadian Bar Review* 265, 1983, pp. 276-280.

[113] (1984) 1 *S.C.R.* 86.

[114] (1950) *Y.B.I.L.C.* II, pp. 368-372.

International law as embodied in custom cannot act as a basis for prosecution of war criminals in Canada.

The situation is, however, different when one looks at the customary international law in the sense of "the general principles of law recognized by the community of nations". Indeed, one might even say that we are then leaving the field of custom and entering the realm of principles. The Statute of the International Court of Justice would appear to lend some weight to such a contention since, after having listed international conventions and international customs as sources of international law, in art. 38, it adds to them in paragraph (c): "the general principles of law recognized by civilized nations".

What the expression "the general principles of law" embraces is a matter for debate. Quoting from *Oppenheim on International Law*,[115] the Supreme Court of Canada wrote tersely in the **Newfoundland Reference**[116] that "[s]ource (c) refers to principles of municipal law". With all due respect, this is rather too short. In the very preceding sentence, Oppenheim said: "The meaning of that phrase has been the subject of much discussion"; and the appended long footnote bears witness to that statement.

On 13 October 1922 a three-member Arbitration Tribunal rendered its decision in a dispute between the U.S.A. and Norway.[117] The Tribunal said:

(p. 384):

> The words "law and equity" used in the special agreement of 1921 cannot be understood here in the traditional sense in which these words are used in Anglo-Saxon jurisprudence.
>
> The majority of international lawyers seem to agree that these words are to be understood to mean general principles of justice as distinguished from any particular system of jurisprudence or the municipal law of any state.
>
> (. . .)
>
> The tribunal cannot ignore the municipal law of the parties, unless that law is contrary to the principle of the equality of the parties, or to the principles of justice which are common to all civilized nations.

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[115] Lauterpacht, ed., *International Law: A Treatise*. By L. Oppenheim, vol. 1, 8th ed., Longmans, Green and Co., Toronto, 1955, p. 29.

[116] *Supra*, footnote 113, this chapter, p. 117.

[117] (1923) 17 *American Journal of International Law*, 362.

In 1949 the International Court of Justice decided the **Corfou Channel** case.[118] In the course of discussing "general principles of law", the Court referred to "elementary considerations of humanity, even more exacting in peace than in war" (p. 22).

In 1958, Professor Grigory I. Tunkin, President of the Soviet Association of International Law and member of the International Law Commission, gave a lecture at the Hague Academy of International Law on "Co-existence in International Law".[119] He discussed at some length "the problem of general principles of law". For some authors, those are principles expressed in national legal systems; they should be distinguished from general principles of international law. For others, quite to the contrary, those principles are "first of all" general principles of international law. Yet others hold the view that the Statute of the International Court of Justice refers to "those principles of national legal systems which have entered international law by way of custom or treaty". Professor Tunkin then proceeded to demonstrate that, in his opinion, "general principles of law can only be principles of international law" (p. 26).

The Commission has not been convinced by the curt statement of the Supreme Court of Canada that the expression "the general principles of law recognized by civilized nations" — or in a more modern way, "by the community of nations" — "refers to principles of municipal law". At the very least, it refers to such principles as are common to all legal systems and have been elevated to the level of international norms. Indeed, such must be the noble interpretation of an expression which, through art. 7 of the European Convention on Human Rights and art. 11 of the International Covenant on Civil and Political Rights, has found its way in 1982 into art. 11 (g) of the *Canadian Charter of Rights and Freedoms*:

> 11: Any person charged with an offence has the right
>
> (g) - not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations.

The Commission will study in depth, in the next part of this chapter, the origin, history and meaning of this provision. For the moment, what is important is to notice and remember simply its existence in the Charter; for it is thus part of "the supreme law of Canada"[120] and supercedes any inconsistent legislation which it renders *pro tanto* "of no force or effect".

Now, no lengthy demonstration is needed to show the abhorrence of the community of nations for war crimes: the Commission refers to its chapter on "The Concept of War Criminals". Murder (individual or *en masse*), rape and plunder, to name but a few, are crimes known to all nations and punished by all; when committed in times of war, they reach a specially high degree of reprobation and nobody will dare deny that they are universally banned, and their authors are liable to be condemned by virtue of "the general principles of law recognized by the community of nations". As the U.S. Military Tribunal has held at Nürnberg in the **Einsatzgruppen** case:[121] "... all nations have held themselves bound to the rules or laws of war which came into being through common recognition and acknowledgment".

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[118] *Recueil C.I.J.* 1949, p. 4.

[119] 1958 *Recueil des cours*, vol. 95, p. 5.

[120] *Canada Act 1982*, (1982) U.K. c. 11, s. 52.

In Canada, a person charged with an offence has henceforth no right to an acquittal if the act, when committed, was criminal according to the general principles of law recognized by the community of nations. In entrenching that provision in its Constitution, Canada could not have more clearly acknowledged its respect for international law; it could not have bowed more reverently to the universal belief in a basic law common to all mankind; it could not have more eloquently adopted that law into its own legal system.

It follows that, due to this adoption of "customary" international law *lato sensu* into Canadian law through art. 11(g) of the *Canadian Charter of Rights and Freedoms*, war crimes can now form the basis of a criminal prosecution in Canada, notwithstanding the lack of any domestic law, or even any domestic law to the contrary. More particularly, s. 8 of the *Criminal Code* could not be raised as a bar to such prosecution.

Before any superior court of criminal jurisdiction in this country (s. 426, Cr. C.), a prosecution can therefore be launched against a war criminal on the basis of a violation of "the general principles of law recognized by the community of nations".

The Commission accordingly *FINDS* that:

20- Neither conventional international law nor customary international law *stricto sensu* can support the prosecution of war criminals in Canada.

21- Prosecution of war criminals can, however, be launched on the basis of customary international law *lato sensu* inasmuch as war crimes are violations of the general principles of law recognized by the community of nations, which art. 11 (g) of the *Canadian Charter of Rights and Freedoms* has enshrined in the Constitution of Canada.

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[121] **In re Ohlendorf and others,** *Annual Digest and Reports of Public International Law Cases*, 1948, p. 656.

b) Under amendments to the law

Thus we are naturally brought to search for new remedies to a situation which is fraught with innumerable difficulties. Assuming, for purposes of discussion, that in a given case:

1) No request for extradition is forthcoming from any country;

2) No prosecution is possible under

   i) The *Criminal Code*;

   ii) The *War Crimes Act*;

   iii) The *Geneva Conventions Act*;

3) A prosecution under international law appears too esoteric: then what new means of action can be put in place? What new tools can be offered to the public prosecutors?

That is the question which the government has asked this Commission to consider: ". . . whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes."

Of course, this immediately brings to the surface two questions which are inextricably linked with the prosecution of suspected war criminals more than 40 years after the facts:

   i) Retroactivity of legislation;

   ii) Undue delay in prosecuting.

The Commission will first consider those two questions; it will then examine the possibility of amending Canadian laws to meet the challenge of war crimes.

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1. *Retroactivity of legislation*

In legal and, more broadly, in human rights circles, the mere uttering of the word "retroactivity" raises suspicions. In the matter of **Rauca**[122] the Chief Justice of the High Court of Ontario expressed them tersely:[123]

> The submission that legislation be enacted to apply retroactively is foreign to our concept of justice. Retrospective legislation is rightfully viewed with suspicion and when it invades the field of criminal law, it is especially repugnant. I do not consider these to be viable alternatives.

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[122] See footnote 10, this chapter.

[123] *Ibid.*, p. 717.

That was written on 4 November 1982. Yet a little over six months earlier, the *Canadian Charter of Rights and Freedoms*[124] had entered into force and it proclaimed, in art. 11, paragraph (g):

> 11. Any person charged with an offence has the right
>
> (. . .)
>
> (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations.

This article was obviously tailored especially to fit the war crimes specifications. The question of retroactivity must therefore be given a fresh approach in the field of war crimes, in light of that specific provision. Yet, it did not spring like Athena, full-armoured from the head of Zeus. To discover its true meaning and intent, its history must be scrutinized.

Furthermore, not only are we governed by art. 11 (g) of the Canadian Charter, but it is clear beyond discussion that this article was in turn inspired by similar provisions in two well-known international instruments: the *European Convention for the Protection of Human Rights and Fundamental Freedoms* and the *International Covenant on Civil and Political Rights*. Those texts, and the debates which led to their adoption, are crucial to a correct modern understanding of the situation in Canada: the Commission plans to use them and their background in order to buttress its interpretation of the Canadian legal situation.

Of course, the Commission is aware of the traditional attitude of the courts which is adverse to taking into consideration extrinsic material and, more particularly, parliamentary debates for purposes of construction of statutes. But several reasons militate in favour of a relaxation of the rule and a more open approach to the question:

a) The Charter is a part of that special brand of statute which is called a constitution; it must be construed with full consideration for the circumstances of the country and the people for whom and by whom it was adopted (the stamp of approval of the British Parliament being no more, for this purpose, than a mere formality);

b) This body is a commission of inquiry, not a court; and it is not bound by rules of judicial interpretation though, of course, its conclusions must stand to reason;

c) This document is the report of a commission, not the judgment of a judicial tribunal;

d) It is a common feature of the jurisprudence of the European Commission and of the European Court of Human Rights that the

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[124] *Canada Act, 1982*, (1982) U.K., c. 11, schedule B, Part I.

Travaux préparatoires are taken in consideration for the purposes of construing the European Convention and assessing its desired impact;

e) Even the judicial rules of statutory construction have been broadened in recent years in Canada.

In this last connection, the rule had been strictly laid down by the Supreme Court of Canada 25 years ago in **Attorney General of Canada v. the Reader's Digest Association (Canada) Ltd., et al.**[125] The Chief Justice wrote (p. 782):

> The dictum of Locke J., speaking for all the Members of this Court, in **Texada Mines v. Attorney General of British Columbia,** (1960 S.C.R., 713) referring to certain statements purporting to have been made by the Premier of British Columbia and the Minister of Mines, that had the evidence been tendered it would have been rejected as inadmissible, should now be declared to be a correct statement of the law. This conclusion is sufficient to dispose of the matter.

But with the passing of time the Supreme Court of Canada opened the door to a broader approach in the reference *Anti-Inflation Act*;[126] true, the emphasis there was less on the construction itself of the Act than on the circumstances which surrounded its adoption and which might help to assess its constitutional validity. Even then the case is a close relative to the matter here under consideration. The Supreme Court — both majority and minority — did not hesitate to consider a wealth of extrinsic material, including parliamentary debates: see Laskin, C.J., p. 391; Ritchie, J., p. 438; Beetz, J., p. 470.

The question arose again in **Société Asbestos Limitée v. Société nationale de l'Amiante et al.** The Court had to find the true impact of the legislation so as to determine its constitutional validity. In the Superior Court,[127] counsel for Asbestos acknowledged that he could not file certain ministerial declarations made in the National Assembly, in view of the judgment of the Supreme Court of Canada in **Reader's Digest** (supra). He established, however, other extra-parliamentary ministerial statements, and the Court came to the conclusion that such were admissible (p. 344).

The Court of Appeal confirmed the trial judge on the merits.[128] However, on the question of admissibility of evidence, the matter took a strange turn. Apparently Asbestos' counsel had a change of heart and he argued that the parliamentary declarations — to which he had renounced during the trial — should be admitted into the record. The Court of Appeal agreed by a majority of three to two. Leave to appeal was refused by the Supreme Court of Canada.[129]

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[125] (1961) *S.C.R.* 775.

[126] (1976) 2 *S.C.R.* p. 373.

[127] (1980) *C.S.* p. 331.

[128] (1981) *C.A.* p. 43.

[129] (1981) 1 *S.C.R.*, p. v.

Still more recently, the Ontario Court of Appeal did not shy away, in **Rauca,**[130] from quoting from the parliamentary debates (p. 244):

> It is clear from the proceedings of the Joint Committee on the Constitution of Canada that the present problem was not absent from their consideration.

And the Court went on to quote from the testimony of the Deputy Minister of Justice and the reply of a member of the Joint Committee.

Finally on 12 February 1986, former Chief Justice Sinclair of Alberta, decided the matter of **Paquette v R. no. 2**[131] which involved the linguistic rights of the petitioner. Mr. Justice Sinclair relied abundantly on the parliamentary debates of 1978 on a proposed amendment to the *Criminal Code*[132] as well as on the debates of 1980 on the proposed *Charter of Rights and Freedoms.*[133]

It is no doubt in light of that recent evolution in Canada that Professor Robin Elliot wrote recently:[134]

> These three decisions, in my view, provide strong support for the argument that our courts should be permitted to have recourse to the earlier versions of the Charter as an aid to the interpretation of its provisions. The fact that in *Blaikie* and *The Senate Reference*, the legislative history of the B.N.A. Act was used as an aid in determining the constitutional status of particular provisions rather than their scope and meaning, as in *Jones*, is surely of no importance. In a sense, even the latter two cases involved problems of interpretation — the difference is that, in them, the B.N.A. Act as a whole was being interpreted rather than particular provisions thereof. Moreover, whatever arguments one could use to support a rule precluding the use of such extrinsic evidence to assist in interpreting particular provisions could, it would seem, be equally well used to suggest a similar rule in respect of the use of such evidence to assist in determining the constitutional status of other provisions. The decisions in *Blaikie* and *The Senate Reference* suggest, therefore, no less than the decision in *Jones*, that, in the constitutional sphere at least, those arguments have been rejected.

Even from a strictly judicial point of view, the Commission therefore feels justified in referring to the legislative history of s. 11(g) of the Canadian Charter and of the provisions of the international instruments which have inspired it; but this only bolsters the decision to do so which it had already reached for the extrajudicial reasons mentioned earlier.

The *European Convention for the Protection of Human Rights and Fundamental Freedoms*, commonly called *European Convention on Human Rights* and adopted on 4 November 1950, provides as follows in its full art. 7:

> 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

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[130] See footnote 10, this chapter.

[131] Court of Queen's Bench of Alberta, District of Edmonton, 12 February 1986.

[132] Judgment, (pp. 12 to 20).

[133] *Ibid*, (pp. 43 and 44).

[134] Elliot, "Interpreting the Charter — use of the earlier versions as an aid", *U.B.C. Law Review* (Charter ed.) 10, 1982, p. 20.

> 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

But for the difference between "civilised nations" and "the community of nations" — a difference which we will encounter elsewhere and which marks the recent evolution of world society — one finds a striking similarity between that art. 7 and art. 11 (g) of the Canadian Charter. Now the *Travaux préparatoires*, which show the convoluted history of the European Convention, present some interesting features concerning art. 7.

In September 1949, the Consultative Assembly of the Council of Europe met in Strasbourg to examine the Report of the Committee on Legal and Administrative Questions.[135] This report proposed the general orientations of a future Convention on Human Rights. More particularly it contained art. 2 (3) as follows:[136]

> Art. 2. In this Convention, the Member States shall undertake to ensure to all persons residing within their territories;
>
> (. . .)
>
> 3) Freedom from arbitrary arrest, detention, exile, and other measures, in accordance with Articles 9, 10 and 11 of the United Nations Declaration.

This article was adopted unanimously[137] and the report was sent to the Committee of Ministers on 8 September 1949.[138]

Two months later, the Committee of Ministers decided to refer the draft to a Committee of Experts.[139] This committee met in February and March, 1950[140] and considered various amendments. One of those was bearing directly on art. 2 (3) and was proposed by the expert of Luxembourg. The whole argument in support of the amendment should be quoted:[141]

> b) By reference to Article 11, paragraph 2, of the United Nations Declaration, Article 2, paragraph 3, enunciates a double principle; firstly, that penal laws shall not be retrospective and, secondly, the principle of the legality of punishment.
>
> From the combination of these two rules it would seem logical that the Declaration and, as a result, the draft Convention, appear absolutely to exclude the retrospective application of penal laws, whether they are laws defining crimes or laws governing punishment.
>
> Conceived in this way, the prohibition appears to be too absolute.
>
> Some leading opinions consider that, in international law, the principle that penal law cannot be retrospective does not apply. After the 1939-1945 war, many texts of

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[135] Council of Europe, *Collected Edition of the "Travaux préparatoires" of the European Convention on Human Rights*, vol. II, Martinus Nijhoff, The Hague, 1949, p. 3.

[136] *Ibid.*, p. 276.

[137] *Ibid.*, pp. 5 and 46.

[138] *Ibid.*, p. 274.

[139] *Ibid.*, p. 296.

[140] *Ibid.*, vol. III, p. 180.

[141] *Ibid.*, p. 192.

> international and municipal law rejected not only the principle of nulla poena sine lege but also the rule nullum crimen sine lege.
>
> Even in municipal law, the principle that penal law cannot be retrospective is undoubtedly a general principle admitted by all civilized nations. It is, however, not universally admitted that there are no possible exceptions to this rule. Situations may arise in which the law-maker is forced to have recourse to a penal law which operates retrospectively. Such was indeed the case in several European States during and after the 1939-1945 war.
>
> Some might consider that the incorporation of the text of the United Nations Declaration in the proposed Convention could be considered as a moral condemnation of these laws.
>
> It is therefore suggested that the formula contained in the Declaration should be attenuated by eliminating the second sentence of paragraph 2 of Article 11 of the Declaration, and by adopting a more supple phraseology. The following text is suggested as a basis for discussion:
>
> "No one shall be held guilty of any act or omission which, at the time when it was committed, did not constitute a delinquent act, either under national or international law, nor according to the general principles of law as recognised by civilized nations."

This is the first time that one can read a reference to "the general principles of law as recognized by civilized nations".

This amendment was referred to a sub-committee which reported[142] "that it was not desirable to amend the text of paragraph 3 of article 2" and added, dealing with our specific topic:

> As regards the second part of the amendment, the Sub-Committee considered that the problem raised by Mr. Welter could be solved by indicating clearly in the statement of reasons, that the Convention applied only to the future.

The Committee of Experts then discussed numerous drafts of art 2(3). Finally, in early 1950, the Committee of Experts reported to the Committee of Ministers and produced a draft convention.[143] Article 2, paragraph 3 (d) of the draft (p. 52) would later become the first paragraph of art. 7 of the Convention. The second paragraph of art. 7 did not yet exist. However, the Committee of Experts wrote (p. 22):

> With regard to the principles that penal laws should not be retrospective (Art. 2 para. 3 (d)) the Committee stressed that this test did not affect laws which, under the very exceptional circumstances at the end of the second world war, were passed in order to suppress war crimes, treason and collaboration with the enemy, and did not aim at any legal or moral condemnation of these laws.

This draft convention was in turn referred to the Conference of Senior Officials which met in June 1950.[144] During this meeting, more precisely on 14 June, "[n]ew draft alternatives" were produced (p. 182). Article 9 reproduced in its first paragraph art. 2.3. (d) of the previous draft; but it contained a new second paragraph which read as follows (p. 188):

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[142] *Ibid.*, p. 208.

[143] *Ibid.*, vol. IV, pp. 2 and 50.

[144] *Ibid.*, p. 100.

> 2) Nothing in this Article shall prejudice the trial and punishment of any person for any act or omission which, at the time it was committed, was criminal according to the general principles of law recognised by civilised nations.

This was the first time that this provision appeared; it had been quite likely inspired by the previously-quoted comment of the Committee of Experts.

In its final report to the Committee of Ministers (p. 242), the Conference of Senior Officials made no comments on that new provision; but it appeared in the draft convention annexed to that report (p. 274) as art. 7 (2).

With minor alterations this article re-appeared in the draft convention adopted by the Sub-Committee of the Committee of Ministers;[145] and subsequently in the draft convention adopted by the Committee of Ministers (p. 120) and sent to the Consultative Assembly (p. 144). Article 7 was not specifically discussed by the Assembly (pp. 210 to 350).

It is, therefore, reasonable to assume that paragraph 2 was inserted into art. 7 of the European Convention in order to render explicit what had been taken to go without saying in the original draft, namely that the provision against retroactivity "did not affect laws which . . . were passed in order to suppress war crimes, treason and collaboration with the enemy . . .".[146]

The European Commission on Human Rights was called upon on at least three occasions to interpret art. 7, especially its paragraph 2, in connection with post-war legislation on war crimes in Belgium. In the matter of **X v. Belgium,** [147] the applicant was complaining about the retroactivity of a law of 1948 which deprived him of a pension to which he had become entitled before the war, but which was annulled after his condemnation to life imprisonment for collaboration with the enemy. The European Commission upheld the validity of the law of 1948 and declared the application inadmissible, in the following terms (p. 240):

> Considering, in particular, with respect to the alleged violation of the principle of the legality of offences and punishments and its corollary, the principle of non-retroactivity of criminal law, as recognized in art. 7 of the Convention, that under its paragraph 2 this article does not affect the conviction and punishment of a person guilty of an act or omission that, at the time of its commission, was criminal in nature according to the general principles of law recognized by civilized nations; that it emerges from the work preparatory to the Convention that the above-mentioned paragraph 2 of art. 7 is intended to specify that this article does not affect the laws that, under the highly exceptional circumstances that arose following World War II, were passed to punish those committing war crimes or acts of treason or collaboration with the enemy, and does not seek to impose any legal or moral condemnation of those laws.

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[145] Council of Europe, *Collected Edition of the "Travaux préparatoires" of the European Convention on Human Rights*, vol. V, Martinus Nijhoff, The Hague, 1979, p. 80.

[146] *Ibid.*, vol. IV, p. 22.

[147] *I Yearbook of the European Convention on Human Rights*, Martinus Nijhoff, The Hague, 1957, p. 239, application 268/57 decided 20 July 1957.

The report notes that a similar decision was rendered at the same time in another application.

In **de Becker v. Belgium** [148] the applicant had been sentenced to death for collaboration; his sentence was commuted to life imprisonment, then to 17 years in prison, then to exile. He was living in France and, under the Belgian Penal Code, he was prohibited from exercising his profession of journalist. He complained against the exile and the prohibition; only the latter complaint is relevant here. The European Commission dismissed it as follows (p. 226):

[Official translation]

> Whereas the applicant contends that Article 123 sexies of the Belgian Penal Code, in virtue of which he is deprived of his right to exercise his profession, is a provision of criminal law and that its application to his case was a violation of Article 7 of the Convention;
>
> Whereas Article 7 (2) of the Convention expressly states that this article shall not prejudice the trial and punishment of a person guilty of any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations;
>
> Whereas the offence committed by the applicant falls within the terms of this exception, as the preliminary work of Article 7 of the Convention clearly confirms;
>
> Whereas it follows that the applicant's complaint concerning the deprivation of his right to exercise the profession of a journalist, insofar as it is based on an alleged breach of Article 7 of the Convention, is incompatible with the terms of the said article and, consequently, inadmissible under Article 27 (2) of the Convention.

In **X. v. Belgium,** [149] the applicant had been fined in France for illicit profits. Upon his return to Belgium, he was imprisoned, deprived of his public office, condemned to confiscation of property and payment of damages and, finally, to automatic and perpetual forfeiture of a long series of rights. After his release from jail, the applicant complained against the retroactive deprivation of his civil rights, admittedly under a law of 1948; again the application was dismissed (p. 334):

> Whereas, firstly, as regards the alleged violation of the principle that offences and penalties must be recognised as such by law, and of its corollary, the principle of the non-retroactivity of criminal law, both of which rules are enshrined in Article 7 of the Convention, it should be noted that paragraph 2 of this Article does not affect the conviction and punishment of a person guilty of an act or omission which, at the time when it was committed, was of a criminal nature according to the general principles of law recognised by civilised nations; whereas the "travaux préparatoires" on the Convention shows that the purpose of this text is to make it clear that Article 7 does not affect laws which, under the very exceptional circumstances at the end of the second world war, were passed in order to suppress war crimes, treason and collaboration with the enemy, and do not aim at any legal or moral condemnation of these laws.

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[148] *2 Yearbook of the European Convention on Human Rights*, Martinus Nijhoff, The Hague, 1958-59, p. 214, application 214/56 decided 9 June 1958.

[149] *4 Yearbook of the European Convention on Human Rights*, Martinus Nijhoff, The Hague, 1961, p. 324, application 1028/61 decided 18 September 1961.

Both the *Travaux préparatoires* and the jurisprudence of the European Commission on Human Rights clearly show the purpose and the scope of the second paragraph of art. 7 of the European Convention: it stands as an exception to the principle of non-retroactivity of penal laws enshrined in paragraph 1 and opens the way to the prosecution and punishment of those guilty of crimes committed during World War II.

The *International Covenant on Civil and Political Rights*, adopted by the General Assembly of the United Nations on 16 December 1966, contains in its art. 15 provisions very similar to those of art. 7 of the European Convention. Article 15 of the Covenant proclaims:

> 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
>
> 2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Here again the history of this article will help to grasp its meaning and purpose.

Article 15 of the Draft Covenant was debated in the Third Committee of the General Assembly of the United Nations during eight meetings in October and November 1960.[150] No less than 48 states took part in the discussion, but Canada kept silent. The debate centered on two Argentinian amendments: the first amendment would have replaced, in the first sentence of the first paragraph of art. 15, the words "national or international law" by the words "applicable law"; the second amendment would have deleted the second paragraph of art. 15 altogether. The two amendments were closely interrelated.

Several arguments were submitted; dealing essentially with the second paragraph, they can be summarized as follows:

To delete the second paragraph

a) "The general principles of law recognized by the community of nations" are not a source of international law;

b) The expression is too vague and nebulous;

c) The expression would include religious or philosophical principles;

d) The expression has known three meanings in the course of history, but never a precise content;

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[150] United Nations General Assembly, 15th Session, 1960, Third Committee, 1007th to 1014th meetings, New York, A/C.3/S.R. pp. 129-166.

e) Criminal acts cannot be defined by a reference to principles;

f) Principles cannot be used by a judge of a criminal court within a national jurisdiction;

g) The expression would introduce a new notion allowing judges to go outside explicitly fixed limits of law in criminal matters;

h) The provision is illusory since no court is specified;

i) The provision offers no protection since there is no means to implement it.

To retain the second paragraph

a) There exists a body of "general principles of international law";

b) Because international law is in constant development does not mean that it does not exist;

c) The Covenant is more than a legal text: it is the proclamation of a moral and ideological ideal;

d) The Covenant is concerned with standards, not specific provisions;

e) It is preferable to use "community of nations" than "civilized nations";

f) The provision is designed to avoid doubts about the Nürnberg and Tokyo trials;

g) All nations are agreed that murder and torture are criminal acts;

h) There are still many war criminals to be punished;

i) The provision would prevent war criminals from escaping justice because their offences were not provided for under domestic or international law;

j) The amendment would absolve persons guilty under international law;

k) Even if the provision is vague, it is important for developing countries which have been victims of equally horrible crimes.

It clearly appears that two conceptions of the Covenant were clashing. Those who supported the Argentinian amendment took a technical approach to the draft at the same time as a rather negative attitude towards international law. Those who opposed the amendment defended the draft in the name of an ideal as well as of an explicit desire that war criminals be brought to justice. The Yugoslav delegate expressed this view best:[151]

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[151] *Ibid.*, 1013th meeting, p. 160.

> The question the Committee should ask itself was whether it wished war criminals to be punished. If as he was sure it did, there could be no objection to inserting in the draft Covenants a provision which would ensure that that would be done.

Six votes in all were taken; the position of Canada was not very glorious:[152]

1) On Argentinian amendment to delete the reference to international law in the first paragraph: rejected 47 to 23 and 10 abstentions (Canada voted in favour);
2) On United Kingdom amendment concerning penalties: rejected 34 to 28 and 18 abstentions (Canada voted in favour);
3) On paragraph 1 as drafted: adopted 56 to 0 and 24 abstentions (Canada abstained);
4) On Argentinian amendment to delete paragraph 2: rejected 51 to 19 and 10 abstentions (Canada abstained);
5) On paragraph 2 as drafted: adopted 53 to 4 and 22 abstentions (Canada abstained);
6) On art. 15 as a whole: adopted 56 to 0 and 23 abstentions (Canada abstained).

At the next meeting, the Canadian delegate explained her vote:[153]

> However, the fundamental question to be dealt with by the Committee was that of the future application of paragraph 2. (. . .)
>
> It [the Covenant] must be drafted in clear terms to prevent it from being arbitrarily interpreted. Her delegation feared that by adopting such a paragraph simply to justify the trials of war criminals of the past, the Committee might open the way to arbitrary actions violating the very rights which the Covenant was intended to protect. She had however abstained during the vote on the second Argentine amendment, even though she was convinced of its logic and humanitarian aims, because the majority of the Committee members seemed to wish to retain the paragraph.

This was indeed a very narrow view of the question; furthermore it certainly did not elicit a deep desire on the part of Canada to pursue the fight against war criminals. It is true that some delegations had expressed a deep concern for the protection of the past: see, for instance, Sir Samuel Hoare, speaking for the United Kingdom.[154] But many more had taken into consideration both the past and the future.

In any event, it is clear from the debates and the votes in the Third Committee that art. 15 of the Covenant was designed, especially in its paragraph 2, to assure the success of the pursuit of war criminals and to remove impediments to their prosecution before the national courts of the countries involved.

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[152] *Ibid.*, pp. 162 to 164.

[153] *Ibid.*, 1014th meeting, p. 165.

[154] *Ibid.*, 1009th meeting, p. 141.

Coming closer to home, it is in light of those international precedents that Canadian history should now be recalled. Stripped of its accessories, the main episode started with the original government proposal before the House (2 October 1980) which was couched, in its relevant part, as follows:

> 11. Any one charged with an offence has the right
>
> e) not to be found guilty on account of any act or omission that at the time of the act or omission did not constitute an offence.

The proposal was referred to a Special Joint Committee of the Senate and of the House of Commons which heard a considerable number of witnesses and received submissions from all horizons. In November 1980, briefs were submitted more especially by the Canadian Jewish Congress and the North American Jewish Students' Network – Canada. The concern which they voiced found a favourable echo in government circles. On 12 January 1981, the Minister of Justice, the Honourable Jean Chrétien, testified as follows before the Special Joint Committee:[155]

> Representations have been made by the Canadian Jewish Congress and the North American Jewish Students Association and by members of the Committee to ensure that Section 11(e) and (f) [as they were then numbered] do not preclude the possibility of prosecuting those who are alleged to have committed crimes recognized under international law. The International Covenant on Civil and Political Rights recognizes the right of a country to try to punish a person for an offence that was, at the time of its commission, recognized as such under international law even if not so recognized at the time under domestic law. The Covenant also permits the trial and punishment of a person for an offence for which he has not been tried and punished in another country.
>
> To reflect these principles in the Charter the government is prepared to accept an amendment so as to provide that:
>
>> Anyone charged with an offence has the right not to be guilty on account of any act or omission that at the time of the act or omission did not constitute an offence under Canadian or international law.

(The balance of the amendment is irrelevant here)

Further concern was then expressed that this amendment did not go far enough. At the Committee's session of 20 January 1981, Mr. Jake Epp, speaking on behalf of the Conservative opposition, declared:[156]

> The Canadian Jewish Community has expressed some concerns that the wording of this Section would prevent the bringing to justice of war criminals. The government's amendment does not fully address these concerns even though the government, and I want to point this out, has gone some distance, we believe, in trying to address those concerns. We propose the following amendment to make sure that the concern is in fact dealt with:
>
>> 11(g) Not to be found guilty on account of an act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law.
>
> And we are adding the following words:

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[155] Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, Issue no. 36, p. 36:12.

[156] *Ibid.*, no 41, p. 47:99.

> Or was criminal according to the principles of law recognized by the community of nations.

Then at the session of 28 January 1981,[157] both the government and the opposition formally introduced an amendment which further refined the wording of the clause:

> Not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations.

Various interventions then made clear the intention of the members of the Committee.

The amendment had been formerly put forward by the Conservative opposition. On behalf of the government, the Minister of Justice stated (*ibid.*):

> If I may say so, in order to save time, this motion was presented by the government too. We, too, support it, and we have our own amendment. As a matter of convenience, we would be happy to accept the amendment of Mr. Crombie. It is exactly the same as ours.

Speaking for the Conservative Party, Mr. Epp declared (*ibid.*):

> All of us have been concerned that our Bill of Rights would reflect not only Canadian practice and Canadian heritage, but as well our obligations to the international community and specifically as it related to war criminals.
>
> I know the Jewish Students Association and the Canadian Jewish Congress have put forward amendments along these lines. I think it is a better reflection, not only on our Canadian traditions, but also on our obligations internationally and I commend, obviously, the amendment to all members.

Then speaking for the New Democratic Party, Mr. Robinson stated:[158]

> Mr. Chairman, I just wanted to very briefly associate myself with the remarks of Mr. Epp and to indicate that we fully support this amendment, that we would certainly have moved a similar amendment ourselves had we not recognized that it was being proposed by the Conservative Party. We are pleased to endorse it.
>
> (. . .)
>
> . . . that this Committee will recognize that Nazi war criminals must be brought to justice wherever they live, including in Canada. So we strongly support the amendment which is brought forward.

The whole matter was then summed up by the Parliamentary Secretary to the Minister of Justice, in the last seconds before the vote agreeing to the amendment (*ibid.*):

> *Mr. Irwin*: So there is no misconception on this, Mr. Chairman, the clause does not prevent the prosecution of war criminals. By itself it does not do that. It does not stand in the way of the prosecution, but by itself it does not allow the prosecution. What it does is allow enabling legislation if the Parliament sees fit, so I think that should be clear.

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[157] *Ibid.*, p. 47:58.

[158] *Ibid.*, p. 47:59.

These remarks have led Mr. Richard B. Wagner to conclude:[159]

> This last statement confirms that s. 11(g) of the Charter was specifically amended to provide for the constitutional validity of "enabling legislation" for the prosecution of Nazi War Criminals.

One can, therefore, see a clear and continuous line of thought through art. 7 of the European Convention, art. 15 of the International Covenant and art. 11(g) of the Canadian Charter; and it is this line of thought which has been captured and expressed by the learned authors who have written on the subject.

Halsbury's, dealing with paragraph 2 of art. 7 of the European Convention has put it very succinctly:[160] "This exception is primarily intended to permit the application of retroactive provisions of the criminal law with respect to war crimes."

In Canada, the effect of art. 11 (g) of the Charter has been studied by various professors who have all come to the same conclusion.

Professor François Chevrette, in 1982:[161]

> However if, following the example of art. 15(2) of the Covenant on Civil and Political Rights and art. 7(2) of the European Convention on Human Rights, s. 11(g) of the Charter refers to these principles in specific fashion, the purpose is to indicate as clearly as possible that the constitutional protection against the retrospective application of penal law may not be relied on to preclude convictions such as those obtained against Nazi criminals in the aftermath of the last world war. As pointed out during the debates of the Joint Committee on the Constitution, s. 11(g) does not exclude the necessity for an empowering statutory provision before Canada can prosecute war criminals. Its effect is simply to remove any constitutional impediment to the enactment of the necessary provision, provided that the act or omission in question was at the relevant time prohibited by the municipal law of Canada, by international law or by generally recognized principles of law.

Professor Gisèle Côté-Harper, in 1982-1983:[162]

[Translation]

> The reference to offences under international law and general principles of law recognized by the community of nations, aims at curbing criminal acts like crimes against peace or humanity, genocide and, of course, war crimes. Those kinds of offences do not always form an integral part of the domestic criminal law and this Article 11 (g) is so construed as to allow the passing of retroactive legislation in order for the country to render criminal acts which, when they were committed, were considered criminal by the international community.

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[159] Wagner, "The Passing of Legislation Allowing for Trial of Those Accused of War Crimes and Crimes Against Humanity", in *The Windsor Yearbook of Access to Justice*, vol. 4, 1984, 143, pp. 150-1.

[160] *Halsbury's Laws of England*, (4th ed.), vol. 18, Butterworths, London, 1983, p. 874, footnote 2.

[161] Tarnopolsky and Beaudoin, eds, *Canadian Charter of Rights and Freedoms: Commentary*, Toronto, Carswell, 1982, pp. 322-323.

[162] Côté-Harper, "Les garanties juridiques et la charte", *Formation Permanente*, vol. 72, Barreau du Québec, Montréal, 1983, pp. 174-175.

> Under this provision, a law may be adopted for the prosecution of Nazi war criminals for the crimes which they committed at that time, even though such crimes be anterior to that law and extraterritorial.

Professor Maxwell Cohen, in 1985:[163]

> Let me make it clear that while I state there that there would be some difficulty in applying the War Crimes Act of 1946 to Canadians in Canada, for procedural and possibly other reasons, the retroactivity question was not one of them since the Charter specifically excludes crimes by the Law of Nations from its prohibitions against retroactivity.

However enlightening those debates and strong those learned comments, some may find actual political action more persuasive. Now other countries have acted on the basis of those principles, so as to assure that war crimes would not go unpunished, especially because of the mere passage of time. The Commission will refer briefly to four instances of such retroactive legislation.

We have adverted earlier to the 1948 Belgian legislation.[164]

In 1964 France lifted prescription in the field of crimes against humanity.[165]

In 1978 the U.S.A. adopted the so-called Holtzman amendment to its Immigration and Nationality Law,[166] which allowed for deportation in case of participation in Nazi persecution.

In 1979 the Federal Republic of Germany abolished the 30-year limitation for murder in its *Criminal Code*.[167]

There exists an eloquent panoply of statutory precedents aiming at the retroactive punishment of war crimes.

It is, therefore, abundantly clear:

- from international instruments;
- from the works and the debates which led to their adoption;
- from international jurisprudence;
- from parliamentary debates in Canada;

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[163] Cohen, in a letter to the Commission, exhibit P-87, 20 August 1985, p. 2.

[164] See footnotes 147, 148 and 149, this chapter.

[165] Law no. 64-1326 of 26 December 1964 in Dalloz, *Code pénal* 1970-1971, p. 767.

[166] 8 U.S.C. para. 1251 (a)(19).

[167] Amendment of 16 July 1979 to art. 78(2) of St.Gb. See also Clausnitzer: "The Statute of Limitations for Murder in the Federal Republic of Germany", *I.C.L.Q.* 29, 1980, 473.

- from opinions of jurists here and abroad;

- and from foreign legislation:

that art. 11 (g) of the Canadian Charter, far from being an empty shell, carries a fateful meaning for war criminals. When it adopted the article, Canada was acting in harmony with its international commitments; and it has reason to feel the more secure that art. 38(c) of the Statute of the International Court of Justice requires the court to apply, among other sources of law, the "general principles of law recognized by civilized nations".

The time has now come for Canada to realize the concrete implications of the lofty ideals which were given expression by its elected representatives whilst the *Canadian Charter of Rights and Freedoms* was in gestation. Article 11 (g) has removed the traditional barrier of non-retroactivity as against those who have shamelessly violated "the general principles of law recognized by the community of nations". Canadians should not renege now on that solemn undertaking. Indeed a precedent had already been set in 1946 on the occasion of the passage of the *War Crimes Act*.[168] The Right Honourable John Diefenbaker, then Leader of the Opposition, said:

> I think this is an important measure for two reasons: First, it will close the doors to the possibility of any war criminal, and Kurt Meyer in particular, being able to raise a defence now or hereafter that an illegal sentence has been imposed upon him;
>
> (. . .)
>
> Usually I am opposed to retroactive legislation. However, I am sure that members on all sides of the house will accept this measure which ratifies what has been done and which assures that international wrongdoing shall not go unpunished.

The Commission accordingly *FINDS* that:

22- By virtue of art. 11 (g) of the *Canadian Charter of Rights and Freedoms*, Parliament can pass enabling legislation, even of a retroactive character, to permit the prosecution and punishment of war criminals.

2. *Undue delay in prosecuting*

The brutal fact remains however that, should charges be laid against a war criminal, such prosecution would be launched some 45 years after the event. Is this not a case where the court, acting on the theory of abuse of process, might stay the proceedings in view of the extraordinarily long delay?

The question must of course be put; we will see whether it should be answered here.

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[168] *Hansard*, Debates of the House of Commons, 1946, vol. IV, 6 August 1946, p. 4383.

Article 11 (b) of the Canadian Charter provides: "Any person charged with an offence has the right (b) to be tried within a reasonable time."

This provision is designed to assure the smooth functioning of the courts; it applies once a person has been charged with an offence or, as the French version puts it, where there is an *inculpé*. Article 11 (b) does not apply before a charge is laid, which is the situation with which we are concerned.

One might thus look to art. 7 of the Charter:

> Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Would the 45-year delay before prosecuting offend "the principles of fundamental justice" and justify a stay of proceedings?

That the courts could order such a stay admits now of no doubt: the Supreme Court of Canada has laid this quarrel to rest in 1985.

Let it be recalled that, in 1977, when many thought that the majority opinion in the Supreme Court of Canada in **Rourke v. R.** [169] had buried this theory, yet it had approved the following restriction as worded by Viscount Dilhorne:[170]

> If there is the power which my noble and learned friends think there is to stop a prosecution on indictment in limine, it is in my view a power that should only be exercised in the most exceptional circumstances.

Thus there remained an ambiguity which gave rise to considerable differences of opinion between several courts of appeal across the country. But for reasons which will shortly be apparent, attention ought to focus on the judgment of the Court of Appeal of Ontario in 1984 in **R. v. Young.** [171] After a painstaking analysis of the relevant pronouncements, Mr. Justice Dubin, writing for the Court of Appeal, concluded (p. 340):

> I am satisfied on the basis of the authorities that I have set forth above that there is a residual discretion in a trial court judge to stay proceedings where compelling an accused to stand trial would violate those fundamental principles of justice which underlie the community's sense of fair play and decency and to prevent the abuse of a court's process through oppressive or vexatious proceedings. It is a power, however, of special application which can only be exercised in the clearest of cases.

Now those conclusions were approved and adopted word-for-word by the Supreme Court of Canada in a unanimous judgment rendered by a bench of seven judges and written by the Chief Justice: **R. v. Jewitt,** on 19 September 1985.[172] The Court said (p. 136):

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[169] **Rourke v. R.,** (1977) 35 *C.C.C.* (2d) p. 129.

[170] *Ibid.*, p. 149.

[171] **R. v. Young,** (1984) 10 *C.R.R.* p. 307.

[172] (1985) 2 S.C.R. 128.

> I would adopt the conclusion of the Ontario Court of Appeal in *R. v. Young, supra* and affirm that "there is a residual discretion in a trial court judge to stay proceedings where compelling an accused to stand trial would violate those fundamental principles of justice which underlie the community's sense of fair play and decency and to prevent the abuse of a court's process through oppressive or vexatious proceedings". I would also adopt the caveat added by the Court in *Young* that this is a power which can be exercised only in the "clearest of cases".

From now on, the situation is therefore plain: the power exists for the courts to order, in clear cases, a stay of proceedings due to a violation of fundamental principles of justice or to the abuse of the court's process.

Whether the long delay before laying charges against war criminals would bring the courts to exercise that power is quite another question; and indeed a question which this Commission should not embark upon trying to answer. For in doing so, it would trench upon the prerogatives of both the Executive and the Judiciary: the Executive, which will have to consider the situation of fact and of law in light of the Commission's individual recommendations concerning various suspects, and must then decide whether prosecutions are warranted; and the Judiciary which may have to rule on the question in light of the facts and circumstances which will then be established. In both cases, it would not behove this Commission to preempt a decision by the proper authority.

For purposes of this report, it will suffice that the question has been raised.

The Commission accordingly *FINDS* that:

23- Should prosecutions be launched against war criminals, a delay of some 45 years will have elapsed between the alleged crimes and the laying of the charges. It shall belong to the Executive and, eventually, to the Judiciary to assess the effect, if any, of this delay on the prosecutions.

3. *Amendments to Canadian legislation*

Once the question of retroactivity has been settled affirmatively and that of delay has been left for further consideration by the competent authorities, the way is now opened for a discussion of possible amendments to Canadian legislation in order to permit the prosecution of war criminals in this country. Indeed, the relevancy of the task had already been stressed on 13 January 1942 when the *St. James's Declaration* was signed. In the opinion of Lord Wright, Chairman of the United Nations War Crimes Commission:[173]

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[173] United Nations War Crimes Commission, ***History of the United Nations War Crimes Commission***, London, Her Majesty's Stationery Office, 1948, p. 91.

> It was Monsieur Joseph Bech, Minister of Foreign Affairs of Luxembourg, who combined the sentiments of all the other delegates when he declared:
>
> (...)
>
> "The application of the principles laid down in the Declaration submitted for our signature. will prevent the war criminals from evading their just punishment.
>
> (...)
>
> If need be, *our national legislative systems must be adapted* to the aims laid down in our common Declaration"...

(emphasis added)

This, however, should not be done indiscriminately. The goal must be kept in sight and the method which is sought must be simple: we cannot afford at this time the luxury of complication-mania or, as the French would say, *avocasseries*.

There are certain basic requirements which any amendment must satisfy. An amendment must:

1) cover specifically war crimes and crimes against humanity;
2) cover all such crimes, whether committed in peacetime or in wartime, and whether Canada was engaged or not in that war;
3) provide for prosecution:
    i) whether the victim be Canadian or not;
    ii) whether the offender be Canadian or not;
    iii) whether the victim or the offender be civilian or military;
    iv) wherever and whenever the crime may have been committed;
4) provide for or, at least, not prohibit civilian trials by jury;
5) provide as a basis for jurisdiction that the offender be found in Canada;
6) contain an express grant of jurisdiction to specific Canadian courts;
7) be couched in words falling clearly within the ambit of art. 11 (g) of the Charter.

Some of those conditions (nos. 1, 4, 7) are self-explanatory: others may benefit of a short comment.

Condition 2: to cover all crimes, not only those"related to the activities of Nazi Germany during World War II" or those committed during a war "in which Canada may be engaged"; otherwise the legislation might be attacked as discriminatory and repugnant to the principles of fundamental justice prevailing in Canada and guaranteed under art. 7 of the Charter.

Conditions 3 and 5: extraterritorial jurisdiction of Canadian courts. In 1931 the *Statute of Westminster*[174] acknowledged "that the Parliament of a Dominion [e.g., Canada] has full power to make laws having extraterritorial operation." (s. 3). This provision is now part of the Constitution of Canada.[175] Whilst proclaiming the territoriality principle in s. 5 (2) of the *Criminal Code*, Canada has opened the door to extraterritorial legislation, under circumstances to be assessed by Parliament:

> 5 (2) Subject to this Act or any other Act of the Parliament of Canada, no person shall be convicted in Canada for an offence committed outside of Canada.

The Canadian Parliament has made repeated use of this power in the *Criminal Code* itself and in several other Statutes, e.g.,

Criminal Code:

s. 6 (1.1): Highjacking;

s. 6 (1.2): Attack against internationally-protected persons;

s. 6 (2): Offences abroad by public service employees;

s. 46 (3): Treasonable acts committed outside Canada;

s. 58: Offences abroad connected with forged passports;

s. 59: Offences abroad connected with fraudulent usage of certificate of citizenship or of naturalization;

s. 75: Piracy;

s. 254 (1) (b): Bigamy.

War Crimes Act:

Regulation 6 (1) gives a power of arrest to a convening officer if a person "has *at any place* committed a war crime"

(emphasis added).

Geneva Conventions Act:

Under s. 3 (1) and (2) of the Act, offences against the *Geneva Conventions* committed outside of Canada can be prosecuted in Canada at the place in Canada where the offender is found.

Immigration Act:[176]

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[174] 22 George V, c. 4 (U.K.).

[175] *Canada Act 1982*, s. 52 and schedule, item 17.

[176] (1976-1977) S.C. c. 52, s. 101 and s. 102.

> Any act that is an offence against immigration law, if committed in Canada, is also an offence if committed outside Canada and may be tried and punished in Canada.

There is, therefore, no lack of precedent for the use of the power to legislate extraterritorially.

Condition 6: express grant of jurisdiction. This condition aims at avoiding the risk of a technical objection which, in its 1984 working paper on "Extraterritorial Jurisdiction",[177] the Law Reform Commission of Canada has underlined as follows:

> . . . it is important, in considering the extraterritoriality of our criminal law, to bear in mind the difference between the "applicability of law" on the one hand, and "jurisdiction of courts" on the other, because both must be provided for in our legislation if criminal conduct outside Canada is to be punishable by a court in Canada.

There is yet another condition which has been proposed for sympathetic consideration in the course of amending Canadian laws: that a relaxation of the rules of evidence be sanctioned by law in the field of war crimes.

Commenting on the Eichmann trial in the *Tulane Law Review* nearly 25 years ago,[178] Professor L.C. Green advocated such a relaxation on the grounds that:

> To have insisted on verbal evidence only, would have meant that in many cases no evidence of any kind was possible. In others, it would have meant unnecessary reopening of old wounds and torture of the survivors.

Professor Green added:[179]

> . . . it may well be said that there is now a generally recognized principle that in such trials any evidence may be admitted that is likely to assist the court in ascertaining the truth.

Mr. David Matas has taken the same position before the Commission:[180]

> The present War Crimes Act provides for a relaxation of the strict rules of evidence that would normally apply in criminal proceedings. Whether prosecution proceeds under the War Crimes Act or under new legislation, the present rules of evidence for war crimes should be retained. Those rules, for prosecution of war crimes and crimes against humanity, do not violate the Bill of Rights. Nor do they violate the Charter of Rights and Freedoms.
>
> The Nuremburg Tribunal and the court that tried Eichmann in Jerusalem, British war crimes courts and American war crimes courts all had rules of evidence similar to those of our War Crimes Act. They are indeed virtually essential in war crimes trials.

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[177] Law Reform Commission, "Extraterritorial Jurisdiction", Working Paper 37, Ottawa, Ministry of Supply and Services, 1984, p. 3.

[178] Green, "Legal Issues of the Eichmann Trial", *37 Tulane Law Review*, 1962-1963, p. 641, at 657.

[179] *Ibid.*, at 658.

[180] Exhibit P-69, p. 98.

Professor Irwin Cotler took a different approach when he was giving evidence on 21 May 1985 before the Justice and Legal Affairs Standing Committee of the House of Commons.[181] Mr. Speyer was questioning Professor Cotler:

> What is the quality of proof about people whom we might prosecute in Canada — let us make the assumption that they can be tried here in Canada — that you know of, as a result of your own investigations?
>
> Number one, every suspected Nazi war criminal is entitled to the defence that any other accused would have in a court of law. I think when we say, bring suspected Nazi war criminals to justice, that is precisely what we mean: in accordance with the rule of law.

In **Khawaja**[182] the House of Lords considered a similar difficulty in the field of immigration, and it chose to maintain the rule. Lord Bridge wrote more particularly (p. 356), with the express concurrence of Lord Scarman (p. 346):

> I would add that the inherent difficulties of discovering and proving the true facts in many immigration cases can afford no valid ground for lowering or relaxing the standard of proof required.

It is a matter for parliamentary wisdom to decide that military justice should be meted out on the basis of less exacting rules of evidence than civil justice. What we are now searching for, however, is not another form of military justice. The regular justice system of the land should apply itself to the task of trying war criminals. These are entitled to the same quality of justice as any other person against whom criminal charges are preferred: however heinous the offences alleged, we must not be swayed in our faith in the rule of law nor must we let the rule be bent to accommodate some particular evidentiary difficulties. Experience shows that, if the need arises, Canadian prosecutors will be more than competent to overcome those obstacles. In the opinion of the Commission, the matter should be governed by the standard rules of evidence: no more, but no less.

The Commission is glad to find that the conditions for new legislation, which it has just outlined, fall well in line with a resolution adopted by the Canadian Bar Association at its Annual Meeting in Vancouver on 3 September 1981.[183] The operative part of the resolution reads as follows:

> BE IT RESOLVED THAT legislation be passed
>
> a) to allow for civilian trials of those accused of war crimes against humanity;
>
> b) to allow for prosecution for war crimes and crimes against humanity whether or not committed during any war in which Canada has been or may be engaged;
>
> c) to make clear that Canadian legislation applies to war crimes and crimes against humanity committed against civilians, provided the accused is found in Canada.

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[181] Minutes of Proceedings and Evidence of the Standing Committee on Justice and Legal Affairs, 21 May 1985, Issue no. 30, p. 30:31.

[182] (1983) *W.L.R.* 321.

[183] Resolution on war crimes and crimes against humanity, Vancouver, 3 September 1981, quoted as Appendix II in brief P-69.

The Commission will now turn to a number of proposals which have been put before it. They imply amendments to:

i) the *Extradition Act*
ii) the *Citizenship Act*
iii) the *Immigration Act*
iv) the *War Crimes Act*
v) the *Geneva Conventions Act*
vi) the *Criminal Code*.

The Commission will deal with these proposals in the same order, save when otherwise indicated.

i) The *Extradition Act*

The Commission has already dealt with this matter. The Commission refers to its recommendations 9 to 16.

ii) The *Citizenship Act*

The Commission will deal in detail with this Act in the next section of this chapter. It is, however, in order to mention here an effort which was attempted in 1978 when Mr. Robert P. Kaplan tabled, as a Private Member's Bill, Bill C-215: "An Act respecting war criminals in Canada".[184] The Bill, which was very short, provided as follows:

> 1. The *Citizenship Act* is amended by inserting, immediately after section 9 thereof, the following new section:
>
> 9.1 Notwithstanding any other Act, every person convicted of an offence pursuant to section 3 of the *Geneva Conventions Act* thereby ceases to be a Canadian citizen.

At the end of the hour allocated for debate, "the subject matter of the Bill", according to Mr. Kaplan, ". . . was referred to the Justice Committee but the Bill was never called by the Committee."[185]

In any event, the Bill would not have answered the concern of its mover nor indeed of all those who wanted to permit the prosecution of war criminals. As we have seen earlier,[186] the *Geneva Conventions* are not retroactive to World War II, and the Act which has imported them into Canadian legislation does not have that capacity either. So Bill C-215 would have stopped short of achieving the desired end.

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[184] Exhibit P-107; first reading of Bill C-215: 30 October 1978.

[185] Evidence, vol. 20, p. 2537.

[186] Pages 123-126 and recommendation 19.

The Commission accordingly *FINDS* that:

24- Bill C-215: *an Act respecting war criminals in Canada*, introduced in 1978 by the Honourable Robert P. Kaplan, would not have achieved the result desired by its mover, especially because of the lack of retroactivity of the *Geneva Conventions*.

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iii) The *Immigration Act*

The Commission will deal in detail with this Act in the next section of this chapter.

iv) The *War Crimes Act*

Here is a telling example of a pointless exercise in legal gymnastics. Intent upon getting their way and obtaining the amendment of any law at any cost, the proponents of the amendment of the *War Crimes Act* put the Act under the microscope of legal research in an effort to demonstrate that it is not essentially designed for military trials of suspected war criminals, and generally in a theatre of war. They then suggest that this Act could be amended so as to render it indisputably compatible with civil — as opposed to military — trials of war criminals in Canada.

The Commission neither shares that view nor does it favour the suggestion to amend the Act, for the following reasons:

1) It is apparent that the *War Crimes Act* cannot be conveniently amended to suit civil trials and retain at the same time its military character; the whole fabric of the Act or, more conveniently, of the regulations re-enacted by the Act would resist this exercise.

2) Indeed the proponents of this solution rather favour the total repeal of the *War Crimes Act* and its replacement by a completely new Act including all Nürnberg crimes, the right to trial by jury and extraterritorial jurisdiction of Canadian courts while also retaining its main military features: hardly a viable marriage, still less commendable legislation!

3) The Commission would rather leave the *War Crimes Act* on the Statute Book as is. One fervently hopes that it will never be needed again, but who knows? Then, at least, it could be used without ambiguity.

4) As will be seen below, there exist simpler means of achieving the desired end.

The Commission accordingly *FINDS* that;

25- In view of its essential features, the *War Crimes Act* cannot be conveniently amended in order to deal with war criminals in Canada.

v) The *Geneva Conventions Act*

The whole argument concerning the possibility of usefully amending the *Geneva Conventions Act* revolves around its retroactive (or not) feature.

The Interdepartmental Committee, chaired by Mr. Martin Low, expressed the view that amending the Act in this fashion "would seem as a matter of principle to be logically and practically beyond contemplation".[187] This statement has drawn the wrath of the holders of the opposite view: Mr. Narvey has referred, on this very issue, to "the thorough-going error-proneness of Martin Low's discussion paper".[188]

The Commission will not allow itself to be drawn into a personality contest. But, staying at the level of principles, the Commission is bound to recall for the third time that the *Geneva Conventions* and the *Geneva Conventions Act* may not have had effect in Canada before 1965, surely are not retroactive before 1949 and definitely have no application to crimes committed during World War II.

This conclusion disposes of the contention that the *Geneva Conventions Act* could be amended so that Canadian courts could deal with Nazi war crimes.

The Commission accordingly *FINDS* that:

26- The contention that the *Geneva Conventions Act* could be amended in order to deal with Nazi war crimes is not tenable.

vi) The *Criminal Code*

Canada has not hesitated to fulfill several international obligations by introducing suitable amendments to its *Criminal Code*; and more often than not, those amendments reflect the growing tendency in conventional international law to recognize the principle of universal jurisdiction of national courts over international crimes. But the discussion of the suitability of amending the *Criminal Code* to extend Canadian jurisdiction over war crimes must be prefaced by the reminder of a most unfortunate coincidence.

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[187] Exhibit P-77, p. 27, no. 41.

[188] Exhibit P-86, p. 61.

In the course of its analysis, the Interdepartmental Committee wrote:[189]

> The jurisdiction to try these offences in Canada would have to be on an extra- territorial basis, and it would have to be established retroactively. It might run counter to the principle of non-retroactivity of penal law, a rule which is found in Article 15 of the UN International Covenant on Civil and Political Rights [to which Canada is a party] which will be incorporated in s.11(g) of the proposed *Canadian Charter of Rights and Freedoms.*

The objection was admittedly formidable.

According to Mr. Low, the Committee's memorandum was finished in December 1980.[190] It was approved for "submission into the Cabinet process" towards the end of December 1980 or the beginning of January 1981.[191] It was considered by the Social Affairs Committee of Cabinet on 11 February 1981.[192]

Now, it happened exactly in the interval between the beginning of January and 11 February that two consecutive amendments were brought in order to introduce into art. 11 (g) of the Draft Charter of Rights the provisions allowing for retroactive legislation in the name of international law and of the general principles of law recognized by the community of nations. This was agreed, as we have seen earlier, on 12, 20 and 28 January 1981.

The memorandum had just been approved with its caveat against retroactivity. The new provisions in art. 11 (g) of the Charter do not appear to have been brought to the attention of the Committee of the Cabinet, nor the conclusions that must flow therefrom. Indeed, the memorandum was never amended.

To what extent this coincidence influenced the political decisions will never be known, but, for certain, the legal theory on this particular point must be rectified in light of art. 11 (g) of the Charter. To paraphrase and correct the memorandum, exhibit P-77: "the retroactive establishment of jurisdiction to try war criminals would not run counter to the principles of penal law: see art. 11 (g) of the Charter."

Need it be stressed again: we are not aiming to make acts, which were deemed innocent when committed, criminal now; such would be unacceptable retroactivity. But extermination of a civilian population, for instance, was already as much criminal in 1940 as it would be today, under the laws of all so-called civilized nations. We are only trying to establish now in Canada a forum where those suspected of having committed such offences may be tried, if found in Canada. This legislation would be, in essence, prospective since it would relate to the future application of the law; and its retroactive aspect, if any, would surely have been anticipated and covered by art. 11 (g) of the Charter.[192a]

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[189] Exhibit P-77, p. 23, no. 35.

[190] Low, evidence, vol. XV, p. 1915.

[191] *Ibid.*

[192] Evidence, vol. XV, p. 1935.

An effort was made in 1985 to introduce a proper provision into the *Criminal Code*, during the debate in Parliament on Bill C-18: An Act to amend the Criminal Code, to amend an Act to amend the Criminal Code and to amend the Combines Investigation Act, the Customs Act, the Excise Act, the Food and Drugs Act, the Narcotic Control Act, the Parole Act and the Weights and Measures Act, to repeal certain other Acts and to make other consequential amendments. The attempt failed under circumstances which warrant its being revived. A short history of the episode is, however, in order.

The Bill, which was a considerable piece of legislation, dealt, it was said, with over 200 topics.[193] Among others, it contained provisions concerning attempts against diplomats, air piracy, hostage-taking and nuclear material diversion.[194] The opposition parties moved to amend the Bill by adding provisions relative to war crimes and crimes against humanity.

In order to be fair to Caesar, it must be underscored that the text of the proposed amendments had been polished and provided by Mr. Kenneth Narvey of the North American Jewish Students' Network – Canada. We have already had the occasion of encountering Mr. Narvey when acknowledging his contribution in 1981 to the amended version of art. 11 (g) of the Charter.

This time, Mr. Narvey had prepared five inter-related motions. They were taken up and introduced after second reading — with the joint support, it may be fairly said, of the Liberal Party and the New Democratic Party — before the Standing Committee of the House of Commons on Justice and Legal Affairs. The text of the five motions, designed to amend the *Criminal Code*, should first be reproduced.

> *Motion A* (War crimes and crimes against humanity)
>
> That the following subsection be added to s. 6 of the Criminal Code:
>
> "(1.9) Notwithstanding anything in this Act or any other Act, where a person has committed outside Canada, at any time before or after the coming into force of this subsection, an act or omission constituting
>
> (a) a war crime, namely a violation of the laws or usages of war committed during any war, whether the Second World War or any previous or subsequent war and whether Canada has or has not participated in that war; or

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[192a] This situation should not be confused with that which the Commission discussed earlier when it discarded the argument that the *Geneva Conventions Act* should be given a retroactive effect. The future amendments to the Criminal Code which the Commission is now considering would receive from art. 11(g) of the *Charter* an imprint which is missing from the *Geneva Conventions Act*.

[193] Standing Committee on Justice and Legal Affairs, Issue no. 15, 14 March 1985, p. 15:19 and 20, Mrs. Finestone; *Hansard*, House of Commons Debates, 24 April 1985, p. 40:64, Honourable Bob Kaplan.

[194] Now especially ss. 6 (1.2 to 1.8) *Criminal Code*.

(b) a crime against humanity committed in time of peace or war before, during or since the Second World War, namely murder, extermination, enslavement, deportation or other inhumane act committed against any civilian population or persecution on political, racial or religious grounds whether or not in violation of the domestic law of the country where perpetrated,

and where the act or omission if committed in Canada would have constituted an offence under Canadian law, that person shall be deemed to have committed that act or omission in Canada if

(c) the person who has committed the act or omission or a victim of the act or omission was, at the time of the act or omission,

(i) a Canadian, or

(ii) a person employed by Canada in a military or civilian capacity; or

(d) the person who has committed the act or omission is, after the act or omission has been committed, present in Canada."

Motion B (deleting automatic recognition of non-Canadian pardons)

That s. 5 of the Bill be amended by striking out lines 43 and 44, on p. 8, and substituting the following therefor:

"able to plead *autrefois acquit* or *autrefois convict*, he shall be deemed to."

Motion C (trial abroad *in absentia*)

That the following subsection be added to s. 6:

"(4.1) for greater certainty, the provisions of subsection (4) relating to the plea of *autrefois convict* do not apply in the case of a person tried outside Canada *in absentia* and there found guilty but not yet punished for the offence."

Motion D (preserving the option of extradition *from* Canada for offences abroad made triable *in* Canada)

That the following subsection be added to s. 6:

"(9) Nothing in this section, or in any other enactment providing for the trial in Canada of an offence committed outside Canada, shall be taken as diminishing

(a) the validity of the principle set out in section 12 of the *Extradition Act* that a fugitive criminal of a foreign state is liable to be dealt with in the manner provided in the said Act whether there is or is not any criminal jurisdiction in any court of Her Majesty's Realms and Territories over the fugitive in respect of the crime; or

(b) the validity of the principle contained in section 18 of the *Fugitive Offenders Act* that a fugitive from a part of Her Majesty's Realms and Territories other than Canada is liable to be returned in the manner provided in the said Act whether or not the offence for which his surrender is asked is an offence within Canadian jurisdiction."

Motion E (coming into force)

That s. 212 of the Bill be amended by adding the following subsection:

(6) Section 5, subsection 39(1), section 40, 55 and 59 and Schedule I of this Act shall come into force on the day this Act is assented to.

A week before those motions were formally made, the Minister of Justice, the Honourable John C. Crosbie, had stated, in answer to a question by the Committee:[195]

> I am not taking any position, certainly not until Mr. Justice Deschênes reports. This is an issue we have to think carefully about.

It was on 14 March 1985 that a full debate took place in the Standing Committee, first on the admissibility of the proposed amendments, then on their substance. But before the votes were taken, the Minister had repeated:[196]

> It is my position, and the position of the government, that these amendments are entirely premature.

In short, the five motions were disposed of as follows (the Minutes of the Debates in the Committee cover 25 pages):

Motion A

The Chair ruled: "... it goes beyond the scope of the clause and the bill under consideration as passed by the whole House in second reading."[197] "[It] is procedurally out of order and therefore unacceptable to the Chair."[198] The ruling was challenged and was sustained by a vote of 8 to 4.[199]

Motion B

The Chair ruled the motion inadmissible as "against the principle of the Bill".[200]

Motion C

The Chair found the motion acceptable.[201] The motion was then "negatived"; the vote was not recorded.[202]

Motion D

(The Minutes say Motion B, by error). The Chairman ruled the motion inadmissible in logical line with his ruling on Motion A.[203]

Motion E

Withdrawn.[204]

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[195] Standing Committee, Issue no. 14, 5 March 1985, p. 14:31.
[196] *Ibid.*, Issue no. 15, 15 March 1985, p. 15:21.
[197] *Ibid.*, p. 15:27.
[198] *Ibid.*, p. 15:28.
[199] *Ibid.*
[200] *Ibid.*, p. 15:31.
[201] *Ibid.*, p. 15:35.
[202] *Ibid.*, p. 15:36.
[203] *Ibid.*, p. 15:38.
[204] *Ibid.*

In a further effort to get his point across, Mr. Robinson (NDP) moved "... that the Justice committee report to the House of Commons seeking an instruction giving it the authority to amend Bill C-18 in order to extend its provisions over war crimes and crimes against humanity".[205] The motion was "negatived" following an unrecorded vote.[206]

The Bill was later reported to the House and came up for third reading on 24 April 1985.[207] The same motions were then renewed, though they were numbered differently:

Motions 1 to 4

(In Committee, Motion A): ruled out-of-order by the Speaker as "go[ing] beyond the original scope of the Bill".[208]

Motions 5 to 8

(In Committee, Motion C in substance): the Speaker found them in order.[209] The question being put, the motions were lost.[210]

Motions 9 to 12

(In Committee, Motion D in substance): the Speaker found them out-of-order for the same reasons as motions 1 to 4.[211]

Motions 13 to 16

(In Committee, Motion E): withdrawn.[212]

The Bill was then passed by the House and referred to the Senate.[213]

During debate on second reading in the Senate, the Honourable Royce Frith, Deputy Leader of the Opposition, dealt with the question of war crimes and crimes against humanity. When he read into the record the main motion introduced before the Committee of the House (Motion A above), he recalled that the amendments had been ruled out-of-order. He then stated that, in his opinion, they were in order and announced that the question would be raised again in Committee.[214]

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[205] *Ibid.*, pp. 15:38 to 15:44.
[206] *Ibid.*, p. 15:44.
[207] *Hansard*, House of Commons Debates, 24 April 1985, p. 40:63.
[208] *Ibid.*, p. 40:67.
[209] *Ibid.*, pp. 40:63, 40:68 and 40:69.
[210] *Ibid.*, p. 40:70.
[211] *Ibid.*, pp. 40:67 and 40:68.
[212] *Ibid.*, p. 40:71.
[213] *Ibid.*

The Minister of Justice appeared before the Standing Senate Committee on Legal and Constitutional Affairs on 30 May 1985. He did not mince his words. When he referred to this Commission, the Minister declared that it would "be sublimely ridiculous not to wait for its report".[215] The Minister added:[216]

> The government does not wish to deal with this matter legislatively at the present time. It would be entirely premature to do so. We have demonstrated that. We have voted against such suggested amendments in the House of Commons Justice Committee, as well as in the House of Commons — amendments moved by people exhibiting what can only be described as a large dose of hypocricy. Our position has not changed.

The matter was not raised again. The Bill was reported without amendment,[217] passed[218] and given royal assent.

Thus, the serious assault which had been mounted on the question of war crimes failed for a reason that had nothing to do with the merits of the proposed amendments. The Government would not move pending the report of this Commission which it had appointed for the very purpose of considering this question. The time has now come to look into the substance of the matter.

Psychologically, there would be an advantage in using the *Criminal Code* as the vehicle for the prosecution of war criminals in Canada. One would at once avoid any image of military courts and wartime procedure; one would discard the prospect of short-circuiting the Canadian legal process or of downplaying the *Canadian Charter of Rights and Freedoms*; one would reassure the faith of the citizenry in the rule of law and would show the international community the respect of Canada for its primacy.

Technically, s. 6 of the *Criminal Code* is a logical place to insert the desired provisions. It appears under the heading "Part I — General". It already deals with extra-territorial offences: hijacking, offences against internationally protected persons, offences at sea, offences by public servants abroad, hostage-taking, nuclear material diversion. It would be consistent to find war crimes in the same chapter.

The Commission accordingly *RECOMMENDS* that

27- The *Criminal Code* should be used as the vehicle for the prosecution of war criminals in Canada.

* * *

As the basis of our work, we will use the five motions (A to E) which were introduced before the Committee of the House and are quoted above. Some refinements may, however, be desirable, as we go along.

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[214] Debates of the Senate, 2 May 1985, pp. 845 and 846.

[215] Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs, Issue no. 12, 30 May 1985, p. 12:20.

[216] *Ibid.*, p. 12:21.

[217] *Ibid.*, p. 14:14.

[218] Debates of the Senate, 13 June 1985, p. 10:14.

We will come back to a detailed analysis of the matter; for the moment, let us begin with a general overview.

Motion A is, of course, the main block of the whole construction.

Motion B was not taken before the House of Commons, and the Commission does not think that the point should be pressed. The question of the validity of foreign pardons raises the impossible problem of the distinction between genuine and sham pardons and is not likely to advance, from a practical point of view, the prosecution of a given war criminal. According to what the Commission has come to learn, the issue has arisen only once (see case number 368) and there is no reason to doubt the genuineness of that particular Ordinance of amnesty.

Motion C was lost on its merits both before the Committee and before the House. It must be recalled that the new ss. 4 of s. 6 of the *Criminal Code* reads as follows (as amended in 1985 by Bill C-18):

> (4) Where a person is alleged to have committed an act or omission that is an offence by virtue of this section and that person has been tried and dealt with outside Canada in respect of the offence in such a manner that, if he had been tried and dealt with in Canada, he would be able to plead *autrefois acquit, autrefois convict* or pardon, he shall be deemed to have been so tried and dealt with in Canada.

Before the House the relevant motion aimed at adding the following:[219]

> (4.1) For greater certainty, it is hereby declared that a person who has been found guilty *in absentia* outside Canada, but who has not yet been punished, shall not be entitled to plead *autrefois convict* on account of that finding of guilt.

The concern of the movers of this resolution was understandable and well founded. The fact is however that it was already taken care of by art. 11 (h) of the Charter:

> 11 Any person charged with an offence has the right
>
> (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again.

The plea is therefore opened to an accused who has been both "found guilty and punished". The door which the movers of the resolution wanted to close "for greater certainty" had already been authoritatively slammed shut in 1982. This amendment would be useless.

Motion D was ruled out-of-order. Actually this amendment tended only to reaffirm principles already enshrined in Canadian legislation on extradition.

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[219] *Hansard*, House of Commons Debates, 24 April 1985, p. 40:69.

The Commission does not see the use of adding such a provision to the *Criminal Code*.

Motion E was withdrawn. It was a technical provision which had no more interest.

We are therefore left only with Motion A, to which some additional provisions might be conveniently added. The following comments are now in order:

i) The proposed amendment dealt only with war crimes and crimes against humanity. No reasons have been given anywhere why this text has ignored crimes against peace. At first, the Commission inclined to include crimes against peace in the new provision but, given further reflection, it decided otherwise. The perpetrators of crimes against peace, insofar as World War II is concerned, have most probably all been dealt with a long time ago. Insofar as other wars of the past are concerned, crimes against peace would represent offences new to Canadian law, and the provision would raise, rightly, all of the familiar objections stemming out of the traditional repugnancy of our society for retroactive penal legislation. If one must absolutely turn one's attention to the possibility of future wars, the topic becomes so much more political than legal that the Commission prefers to abstain and to let Parliament, should it so wish, embark upon that kind of an initiative. Indeed, no one raised the point in either chamber of Parliament during the 1985 debate. Crimes against peace shall, therefore, not be encompassed in the amendment which the Commission is considering.

ii) The proposed amendment gave its own descriptions — not definitions — of war crimes and crimes against humanity. The 1945 *Charter of the International Military Tribunal* which sat at Nürnberg had evolved appropriate definitions. The amendment is at times wider, at times narrower: this technique does not commend itself to the Commission. It would appear better to try and establish straight definitions which, however, would then admit explicitly their origin in the Nürnberg Charter while simultaneously widening their application in time and space. If a construction effort is ever necessary, the courts would thus be directed by the Code itself to look for inspiration to the international jurisprudence.

iii) The Code must contain an express grant of jurisdiction to the courts in Canada. It had been suggested that the matter be entrusted to the courts of the territorial division in Canada where the suspect is found. However, ss. 6 (3) was replaced in 1985, and the new wording is so wide that it can apply without any change to the new provisions concerning war crimes and crimes against humanity.

iv) Consideration must be given to the granting of prosecutorial authority to the federal Attorney General only. It is true that, generally, the authority to prosecute under the *Criminal Code* is allocated to the provinces. In the matter of war crimes, this division of responsibility would likely create great difficulties. Suspects have been found in various parts of the country. Now, this is a highly specialized field of endeavour; it requires, for successful pursuit, a sophisticated degree of expertise which may not be attained by many people. Uniformity in the application of the law must also be sought and achieved. Finally, this is a matter which falls totally into the field of federal competence and entails the constant monitoring of Canada's relations with foreign countries. It should, therefore, be left in the hands of the Attorney General of Canada.

In his brief-letter of 29 July 1986, Mr. Matas objects on the grounds that "justice would be confounded with politics". In its brief of 22 August 1986, Network, (by the pen of Mr. Narvey), expresses the same opinion in different words, (p. 10). The Commission disagrees. Should the government submit to Parliament the various amendments which this report advocates, the Attorney General would become morally and politically bound to give them effect.

Conversely, and again contrary to Messrs. Matas' and Narvey's latest plea, no private prosecution should be authorized. The experience of this Inquiry has shown how high emotions do run and how barely skin-deep feelings are buried. In the matter of war crimes, no private citizen should be allowed to put the wheels of justice in motion on his own initiative.

v) It has been recommended to the Commission that no prosecution be allowed without the written consent of the Attorney General (whichever he may be). Several observations are here in order:

  a) If the Commission's recommendation is accepted, that prosecution be placed in the hands of the Attorney General of Canada only, the question is automatically answered: such prosecution implies consent.

  b) The Commission will recommend essentially an amendment to s. 6 of the *Criminal Code*. This amendment will, therefore, come under the sway of ss. 6 (5) which already provides:

  > (5) No proceedings shall be instituted under this section without the consent of the Attorney General of Canada if the accused is not a Canadian citizen.

  c) Now, this Inquiry has found that nearly all suspects who are residing in Canada and have been brought to the Commission's attention had become Canadian citizens over the years. There is, therefore, no harm in leaving the law as it stands: in next to all cases, ss. 6 (5) will have no practical effect; in the odd case "where the accused is not a Canadian citizen", the consent to prosecution will be an integral part of the latter.

d) Should the prosecution be left in the hands of the provincial authorities, again ss. 6 (5) will have its effect, and that should be satisfactory. Because a provincial Attorney General would be prosecuting, there is no point in asking for consent of the federal Attorney General in all cases: this would only result in duplication of work and effort, delays and possibly frustration where co-operation would be essential.

vi) It goes without saying that the right of the accused to trial by jury should be protected. It has been argued in some quarters that there is no room for jury trials in the matter of war crimes: the Commission disagrees. As these prosecutions should be heard before ordinary courts following ordinary rules of evidence, in the same vein the traditional right to jury trial should be recognized to the accused. Indeed, this right is enshrined in art. 11 (f) of the Charter.

vii) In his brief of 22 August 1986, Mr. Narvey argues (pp. 4 and 5) in favour of the addition to his draft Motion A of the following paragraph:

> "(e) the person who committed the act or omission became a Canadian citizen after the commission of the act or omission."

Indeed, as Mr. Narvey has convincingly demonstrated (pp. 21-28):

> the laws of France, Finland, Greece, the Netherlands, Sweden and West Germany all provide not only that their citizens may be tried by them for crimes committed abroad, but also that persons who *become* their citizens may be tried by them for crimes committed abroad *before* they became citizens. (p. 4)

The Commission agrees with the principle of this suggestion; this could, however, be more aptly drafted, and the Commission will incorporate it into ss. 6(1.10)(c) which it will recommend below.

On the basis of those considerations, the Commission *RECOMMENDS* that:

28- Section 6 of the *Criminal Code* should be amended by adding thereto the following subsections:

"(1.9) For the purposes of this section, 'war crime' and 'crime against humanity' mean respectively:

a) War crime: a violation, committed during any past or future war, of the laws or customs of war as illustrated in paragraph 6 (b) of the *Charter* of the International Military Tribunal which sat in Nürnberg, and irrespective of the participation or not of Canada in that war;

b) Crime against humanity: an offence committed in time either of peace or of a past or future war, namely murder, extermination, enslavement, deportation or other inhumane act committed against any civilian population or persecution on political, racial or religious grounds whether or not in violation of the domestic law of the country where perpetrated, as illustrated, but without

limitation in time or space, in paragraph 6 (c) of the *Charter* of the International Military Tribunal which sat in Nürnberg.

(1.10) Notwithstanding anything in this Act or any other Act,

a) where a person has committed outside Canada, at any time before or after the coming into force of this subsection, an act or omission constituting a war crime or a crime against humanity, and

b) where the act or omission if committed in Canada would have constituted an offence under Canadian law,

that person shall be deemed to have committed that act or omission in Canada if

c) the person who has committed the act or omission or a victim of the act or omission was, at the time of the act or omission,

(i) a Canadian citizen, or

(ii) a person employed by Canada in a military or civilian capacity; or

later became a Canadian citizen; or

d) the person who has committed the act or omission is, after the act or omission has been committed, present in Canada.

(1.11) No proceedings shall be instituted under ss. 1.9 or 1.10 except by the Attorney General of Canada or counsel instructed by him for the purpose."

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3) Denaturalization and Deportation

a) Introduction

Barring the availability of any other remedy, denaturalization[230] and deportation could finally be used in appropriate cases for ridding Canada of war criminals. Indeed, this is the only means which our neighbours to the south have been using since they started their grand effort with the OSI in 1980. At the moment of writing, only three deportations of alleged war criminals have been completed from the U.S.A.: Hans J. Lipschis was deported to West Germany on 14 April 1983; Feodor Fedorenko was deported to the U.S.S.R. on 21 December 1984; Valerian Trifa was deported to Portugal on 13 August 1984. Two other suspects were recently expelled from the U.S.A., but proceedings in extradition had been started by the foreign countries interested, and it was pursuant to those requests, rather than to their deportation procedures, that the U.S. extradited Andrija Artukovic to Yugoslavia on 12 February 1986, and John Demjanjuk to Israel on 27 February 1986. Similar circumstances prevailed when Hermine Braunsteiner Ryan was returned to West Germany on 6 August 1973.[221]

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[230] In this chapter, the Commission will use the word "denaturalization" in lieu of the more correct, but longer, phrase "revocation of citizenship".

Under Canadian law, no Canadian citizen can be deported,[222] and no Canadian-born citizen can have his citizenship revoked.[223] Suspected war criminals, however, were all born in foreign countries and, but for a few possible exceptions, have been naturalized Canadians over the years. Should there exist suitable evidence that a suspect for example, belonged to a prohibited class and lied on that account, thus illegally immigrating into Canada, there may exist the possibility of stripping him of his Canadian citizenship and then deporting him to another country willing to accept him.

This procedure, however, is cumbersome and raises several intricate questions of law, not to speak of evidentiary difficulties. The Commission will tackle those problems; it does not feel compelled, however, to enter into a broad discussion of all those issues, because they have already been examined in depth, and the relevant studies are available to the Governor-in-Council, to the various interested parties, and to the public at large. The Commission refers more particularly to the following:

YEAR	DATE	DESCRIPTION
1979	11 September	M. Jack Silverstone: *War Criminals in Canada - Legislative Options*, Library of Parliament, Ottawa
1981	2 January	Maxwell Cohen: Letter to the Honourable David Crombie (exhibit P-87)
1981	January	Discussion Paper of the Interdepartmental Committee on War Criminals, chaired by Mr. Martin Low (exhibit P-77)
1981	29 January	David Matas: Human Rights, War Crimes and the Constitution (exhibit P-62)
1982	May	Canadian Jewish Congress: Report of the Legal Committee on War Crimes (exhibit P-122)
1983	27 May	Christopher A. Amerasinghe: Opinion on Revocation of Citizenship of Nazi War Criminals (exhibit P-101)

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[221] Ryan, *op. cit.*, pp. 47 to 52.

[222] *Immigration Act, 1976*, 25-26, El. II, c. 52, s. 4(2).

[223] *Citizenship Act*, 23-24-25, El. II, c. 108, Part II; also Charter, art. 6(1).

1983	1 September	Canadian Jewish Congress: Supplementary Report
1983	8 December	Honourable Mark MacGuigan: Opinion to the Honourable Bob Kaplan (exhibit P-103)
1984	30 April	Honourable Mark MacGuigan: Letter to Kenneth M. Narvey (exhibit P-104)
1985		William Mandell: Nazi Persecutors in the United States: Proposed Consolidation of the Denaturalization and Deportation Procedures (exhibit P-70)
1985	Spring	David Matas: Bringing Nazi War Criminals in Canada to Justice (exhibit P-69)
1985	22 May	Submission of the League for Human Rights of B'nai Brith Canada (exhibits P-60 and P-61)
1985	22 May	David Matas: Submission (exhibit P-59)
1985	10 July	Irwin Cotler: Submissions and Recommendations of the Canadian Jewish Congress (exhibit P-84)
1985	Fall	David Matas: Government Inaction on Nazi War Criminals in Canada (exhibit P-85)
1985	1 September	Sharon A. Williams: Deportation and Denaturalization of War Criminals in Canada
1985	20 September	Kenneth M. Narvey: Some comments on the presently available views of Mr. Martin Low, etc. (exhibit P-86)
1985	3 October	Michel Proulx: Nouvelle législation relative aux crimes de guerre
1985	10 October	Donald P. Bryk: Legal Opinion on Denaturalization and Deportation of War Criminals
1985	3 December	Additional recommendations of the League for Human Rights of B'nai Brith Canada.
1986	5 May	John Sopinka: submission of the Ukrainian Canadian Committee (exhibit P-160).

1986	6 May	Y.R. Botiuk: submission of the Brotherhood of Veterans of the First Division of the Ukrainian National Army (exhibit P-163).
1986	3 June	David Matas: Comments on four opinions received by the Commission.
1986	25 June	Irwin Cotler: Submission of C.J.C. on legal opinions mandated by the Commission.
1986	29 July	Irwin Cotler: Closing submissions and recommendations of C.J.C.
1986	29 July	Irwin Cotler: The duty to disclose.
1986	22 August	Kenneth M. Narvey (Network): Some comments on. . . the report of the Commission's. . . legal experts.

Due to the considerable span of time which is covered by the Commission's terms of reference, no less than eight statutes must be examined and their interplay assessed:

1910: *Immigration Act*, 9-10 Ed. VII, c. 27

1914: *Naturalization Act*, 4-5 G. V, c. 44

1927: *Naturalization Act*, 1927 R.S.C., c. 138

1946: *Canadian Citizenship Act*, 10 G. VI, c. 15

1952: *Immigration Act*, 1952 R.S.C., c. 145

1952: *Immigration Act*, 1952 R.S.C., c. 325

1976: *Citizenship Act*, 23-24-25 El. II, c. 108

1977: *Immigration Act, 1976*, 25-26 El. II, c. 52

It may also be necessary to refer to the *Interpretation Act*, 1970, R.S.C., c. I-23.

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b) Consolidation of Procedures

By way of preface, and simply to underline the statutory complexities, let it be recalled that denaturalization and deportation are subject to two different sets of rules under the legislation which is currently in force:

denaturalization:

> notice by the Minister to the respondent; request by the respondent that the case be referred to the Federal Court, trial division; hearing by the Federal Court; decision by the Court which is final and conclusive and without appeal;[224] report by the Minister to the Governor-in-Council; order of the Governor-in-Council.[225]

deportation:

> report by an immigration officer to the Deputy Minister; instructions by the Deputy Minister to a senior immigration officer; inquiry ordered by the senior immigration officer; inquiry by an adjudicator in the presence of the respondent; in suitable cases, deportation ordered by the adjudicator;[226] appeal to the Immigration Appeal Board;[227] appeal to the Federal Court of Appeal, by leave, on questions of law;[228] appeal to the Supreme Court of Canada, by leave, on any question.[229]

Irrespective of the strictly administrative steps, the whole process therefore comprises:

> for denaturalization: a hearing in court and a debate in the Governor-in Council;
>
> for deportation: an inquiry by an adjudicator, followed by three possible appeals.

There is substantial similarity between the Canadian and the American situations. William Mandell has summarized the American process as follows: [230]

> Denaturalization and deportation involve two separate legal processes within immigration and nationalization (sic) law. In a denaturalization action, the defendant is entitled to an initial trial in federal district court with the right of appeal to a circuit court of appeals and ultimately, if *certiorari* is granted, to the U.S. Supreme Court. A deportation action entails an initial administrative hearing before an immigration judge, an administrative appeal to the Board of Immigration Appeals (BIA), and then a subsequent right to judicial review by a circuit court of appeals and ultimately, if *certiorari* is granted, by the U.S. Supreme Court.

Mandell has added:[231]

> Under current immigration and nationalization (sic) law, it is not possible to combine these two processes. Together, excluding time delays and the actual implementation of the alien's departure, these two procedures can take up to seven years to complete.

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[224] *Citizenship Act*, c. 108, s. 17.

[225] *Ibid.*, s. 9.

[226] *Immigration Act*, c. 52, s. 27 - s. 36.

[227] *Ibid.*, s. 72 *ff.*

[228] *Ibid.*, s. 84.

[229] *Federal Court Act*, 1970, R.S.C. c. 10, (2nd Supp.), s. 31.

[230] Exhibit P-70, Nazi Persecutors in the United States: Proposed Consolidation of the Denaturalization and Deportation Proceedings, 1985, Boston College, pp. 2-3.

[231] *Ibid.*, p. 3.

Without committing ourselves to a definite time figure, there is no doubt that the Canadian process would also involve a matter of years. Now given the age of the respondents — by definition they cannot be under 60 and several are even in their 80s — the duplication and repetitiveness of evidence, the expense and the delays involved, create a serious impediment to the efficient and fair administration of justice. Indeed, as will be shown in the next chapter of this report, death has overtaken a substantial number of suspected war criminals who had established themselves in Canada.

One way of avoiding such an unfortunate result would be — at least in the case of Nazi war criminals — to consolidate denaturalization and deportation into a single set of procedures. No doubt all kinds of difficulties would arise due to the interplay of administrative and judicial, even political, steps in the present system; but none of those difficulties is insuperable unless each department be adamant in retaining control of its own empire.

Denaturalization begins by a judicial hearing: why could not deportation be elevated to the same process? Then, when this streamlining has been achieved, why not join the two hearings before the same authority, with the proviso that the denaturalization phase proceed first and be decided before the deportation phase is dealt with?

Denaturalization denies any right of judicial appeal: why not apply the same rule to deportation? Of course, this solution may be found too harsh. Because of human frailty, our judicial system provides generally for one and, often, two levels of appeals. In view of the importance of citizenship and the disruption entailed by deportation, an argument can be made that a decision in this field should not be left without some available remedy. Even then, however, delays and expenses should be held to a minimum: a single appeal at most should be countenanced.

The Commission is prepared to leave the details of such amendments to the law officers of the Crown; but it *RECOMMENDS* in principle that:

29- Without eliminating the final role of the Governor-in-Council, the procedures leading to revocation of citizenship (denaturalization) and to deportation — at least in cases of suspected Nazi war criminals — should be streamlined and consolidated;

30- The deportation hearing should be elevated to the level of the judicial process, as in denaturalization; the two hearings should then be joined before the same authority, with two provisoes:

  a) that the denaturalization phase should proceed first and be decided before the deportation phase is dealt with;

  b) that the findings of facts in the first phase should be held as conclusive with respect to the second phase.

31- Judicial appeals should be denied or, at most, a single appeal should be provided for against denaturalization and deportation orders together.

Such amendments would only bring, in any event, a change in procedure. To assess the rights and obligations of the parties involved, it is to the legislation as it presently exists that we must now turn.

c) Denaturalization

1. Which Act governs?

Under c. 108 of 1976, s. 9, citizenship will be revoked if the person concerned has obtained citizenship *under this Act* by false representation or fraud or by knowingly concealing material circumstances. Section 9 appears in Part II of the Act. Section 6, in the same Part, provides that:

> A person who is a citizen shall not cease to be a citizen except in accordance with this Part.

Now s. 9. applies expressly to persons who have obtained citizenship *under this Act*. It does not deal with persons who became citizens under prior legislation (as, undoubtedly, nearly all suspected war criminals have).

Section 36 provides that: "the former Act is repealed". Section 35 contains transitional provisions which have no interest here.

The question therefore arises: can the prior legislation still be used to revoke the citizenship of a person who has obtained it under that prior legislation, i.e., essentially under the Statute of 1946? The question is relevant both as to the merits and as to procedure.

As to the merits:

Section 21 of the 1946 Statute provided for revocation of citizenship in its paragraph (b): if a person "has obtained a certificate of naturalization or of Canadian citizenship by false representation or fraud or by concealment of material circumstances".

The requirements for revocation were, therefore, nearly identical under the 1946 and 1976 Statutes, save for the addition of the word "knowingly" in the latter Act. This addition was probably prompted by the conclusion by the Supreme Court of Canada in 1973, **Minister of Manpower and Immigration v. Brooks.**[232] This case was decided under the *Immigration Act*, but the conclusion reached on this particular point is equally apposite under similar provisions in the citizenship legislation. Rendering the unanimous judgment of the court, Mr. Justice Laskin (as he then was) wrote (pp. 864-865):

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[232] (1974) S.C.R. 850.

> The consequences of a falsehood may be harsh, but no dispensing power is given to this Court nor is it entitled, when Parliament has spoken as clearly as it has, to provide its own measure of fatal deficiency.
>
> (. . .)
>
> . . . since criminal punishment is not the object of the enforcement of immigration and deportation policies by means of special inquiries, I cannot be persuaded that intentional or wilful deception should be read in as a prerequisite.

As to procedure:

The present legislation provides for a hearing before the Federal Court, trial division, (c. 108, s. 17).

The 1946 Act foresaw a hearing before a judicial commissioner or the superior court of the province, (c. 15, s. 21[3]).

The rest of the process has remained the same throughout: report by the Minister and decision by the Governor- in-Council. But the hearing officer is different.

A decision as to the relevant law is therefore necessary both as to procedure and as to denaturalization itself. With this purpose in mind, we must now turn to the *Interpretation Act*, c. I-23. The relevant provisions are the following:

> 35. Where an enactment is repealed in whole or in part, the repeal does not
>
> > (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed;
> >
> > (d) affect any offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred under the enactment so repealed; or
> >
> > (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;
>
> and an investigation, legal proceeding or remedy as described in paragraph (e) may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed as if the enactment had not been so repealed.
>
> 36. Where an enactment (in this section called the "former enactment") is repealed and another enactment (in this section called the "new enactment") is substituted therefor,
>
> > (d) the procedure established by the new enactment shall be followed as far as it can be adapted thereto in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights, existing or accruing under the former enactment or in a proceeding in relation to matters that have happened before the repeal.

As to substance:

Section 35 clearly preserves, after repeal of the prior legislation, both the right of the Crown to initiate proceedings in revocation of citizenship and the liability of the citizen to suffer such revocation, should the circumstances warrant under the repealed legislation. This conclusion was reached and approved in 1974 by the Federal Court of Appeal in **Bell Canada v. Palmer** [233] interpreting ss. 35(c) and (e) of the *Federal Interpretation Act*. Speaking for the unanimous Court of Appeal, Chief Justice Thurlow said (p. 189):

> The learned trial judge held that substantial rights had accrued to the complainants under the old Act at the time of its repeal and that section 35, paragraphs (c) and (e) of the Interpretation Act, R.S.C.1970, c. I-23 applied to preserve and continue such rights under that Act notwithstanding the appeal.[234] I agree with this view.

The same conclusion had been reached in 1970 by the Ontario Court of Appeal in **R. v. Coles** [235] dealing with a prosecution commenced under the *Ontario Securities Act* after its repeal. The case dealt with the *Ontario Interpretation Act*, but its provisions were virtually identical to ss. 35(c) and (e) of the *Canadian Interpretation Act*.

This conclusion is borne out both by the text of s. 35 and by the equitable construction that should be put on it.

Stripped of its unnecessary wording for our purposes, s. 35 provides that where an enactment is repealed, the repeal does not affect any right or liability acquired or incurred under the enactment so repealed; does not affect a violation of the provisions of the enactment so repealed or any forfeiture incurred under such enactment; it does not affect any remedy in respect of any such right, liability or forfeiture; and a remedy may be instituted or enforced and the forfeiture may be imposed as if the enactment had not been so repealed.

Once those interpretation principles are applied to our citizenship legislation, the perpetuation through 1976 and up to this day of the right of the Crown and the liability of the citizen to revocation of citizenship under the repealed 1946 Act could not be more clearly stated. So much for the text of the *Citizenship Act*.

No other reasonable conclusion could be reached either, through an effort of equitable construction. The Commission will simply adopt here the reasoning of Mr. Christopher A. Amerasinghe in his opinion of 27 May 1983:[236]

> I do not think it would be reasonable to assume that Parliament intended that those persons who had obtained citizenship by fraud or false representations or concealment of material facts under prior legislation should be immune from penalties or liabilities such as revocation of citizenship merely because they were not discovered until after the

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[233] (1974) F.C. 186.

[234] This is probably a printing mistake and should read: "repeal".

[235] (1970) 1 *O.R.* 570.

[236] Exhibit P-101, p. 6, no. 27.

passage of the new legislation, whereas persons who had obtained their citizenship by fraud or false representations or concealment of material facts under the new legislation were to be subject to penalties and revocation of citizenship.

As to procedure:

It is s. 36(d) of the *Interpretation Act* which governs (it is quoted above). In agreement with the generally accepted theory, it provides for the immediate application of laws of procedure to past events and to pending proceedings.

True, in **Eisener v. Minister of Lands and Forests,** [237] the Nova Scotia Court of Appeal took a different view of the impact of ss. 22(3)(d) of the *Interpretation Act of Nova Scotia*[238] which used the same wording as s. 36(d) of the *Canadian Interpretation Act*. It stressed that ss. 22(3)(d) provided for the substitution of the new procedure "as far as it can be adapted" (p. 169). Now the new Nova Scotian Statute provided for "an entirely different type of proceeding before a different tribunal with different rights of appeal" (*ibid.*). But the situation here is vastly different inasmuch as the whole procedure remains the same, and the only change lies in the fact that the hearing is moved from the Superior Court to the Federal Court, an easy "adaptation" to make.

Much closer to our situation were the facts in **Re Martell.** [239] There the courts had to apply ss. 14(2)(c) of the *Interpretation Act* of Ontario.[240] This paragraph again used the same wording as s. 36(d) of the *Canadian Interpretation Act*. The situation of fact which formed the basis of the action had actually crystallized before the repeal of the former enactment (as here) and the proceedings had been initiated after that repeal (as they would here): the Court of Appeal of Ontario decided that the new procedure should apply.

The Commission, therefore, *FINDS* that:

32- In the matter of denaturalization, the substance of the rights of the Crown and the rights and liabilities of the citizen should be governed by the Act under which they accrued, even if the Act was repealed in the meantime; the procedure should be governed by the Act in force when the legal proceedings are commenced.

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2. Grounds for denaturalization

This question goes, of course, to substance, not only to procedure and must accordingly be governed by the Act of 1946. Subsection 21(1)(b) provided for revocation of citizenship if the latter had been obtained:

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[237] (1974) 10 *N.S.R.* (2d) 160.

[238] (1967) *R.S.N.S.*, c. 151.

[239] (1957) 11 *D.L.R.* (2d) 731.

[240] (1950) *R.S.O.*, c. 184.

1. by false representation; or
2. by fraud; or
3. by concealment of material circumstances.

The 1976 legislation adopted the same criteria (s.9) but with the following qualifications:

1. the condition "knowingly" was added to the third ground: concealment of material circumstances;
2. a deeming provision was added by ss. 9(2), expressly bridging the gap between immigration and citizenship.

The condition added to the third ground admittedly rendered revocation more difficult; conversely the deeming condition should have made the whole process smoother. Again, however, in view of the period during which most suspects should have acquired Canadian citizenship, it is under the provisions of the 1946 legislation that the question of the grounds for denaturalization should mainly be considered.

The three grounds for revocation are connected in the same section of the Act to the obtaining of Canadian citizenship. They may, therefore, be shown to have matured during the citizenship process, e.g., false representations before the citizenship judge. One, however, must move further: s. 10 of the Act provides in turn that the applicant must "satisfy the [citizenship] court" that:

> "(b) he has been lawfully admitted to Canada for permanent residence therein;
>
> (d) he is of good character."

The revocation authority may, therefore, look back to representations, fraud or concealment at the time of the admission to Canada for permanent residence. This makes necessary an examination of the immigration laws which were in force at the time of the suspects' admission into the country for permanent residence.

Always because of the dates involved, one must look at the Immigration Acts both of 1910 and 1952; it is only in the odd and exceptional case that the 1976 Act should be considered. Because of intervening amendments and in order to simplify references, we will use the consolidation of 1952: c. 145[241] and c. 325 also of 1952,[242] which abrogated and replaced c. 145. Chapter 145 regulated entry requirements between World War II and 1 June 1953 when c. 325 was proclaimed. Chapter 325 regulated the matter until 1978.

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[241] *Immigration Act*, 1952, R.S.C., c. 145.

[242] *Immigration Act*, 1952, R.S.C., c. 325. By its s. 73, c. 145 was repealed.

Our main concern is the determination of prohibited classes of immigrants during the relevant period, especially during the ten years or so after World War II. The answer to this question should outline the probable field of "false representations, fraud or concealment of material circumstances".

Immediately after the war, the prohibited classes relevant to our study were the following (in abbreviated form):[243]

d) persons guilty of crimes involving moral turpitude;

n) persons advocating the overthrow by force of the Government of Canada or the assassination of public officials;

o) persons affiliated with organizations which preach such doctrines;

p) enemy aliens or persons who have been alien enemies and who were or may be interned on or after the 11th day of November 1918;

q) persons guilty of espionage;

r) persons guilty of high treason or who assisted His Majesty's enemies in time of war.

As from 1 June 1953, c. 325 listed the following prohibited classes (again in abbreviated form):[244]

d) as in (d) above, under reserve of rehabilitation;

l) as in (o) above;

m) as in (n) above;

n) spies, saboteurs;

q) as in (q) above;

r) as in (r) above;

t) persons who cannot comply with the Act.

Those statutory provisions, however, do not tell the whole story. Section 82 of c. 145 gave to the Governor-in-Council the power to:

> make such orders and regulations, not inconsistent with this Act, as are considered necessary or expedient for enforcing the provisions of this Act according to the true intent and meaning thereof.

Section 61 of c. 325 continued in force this regulatory power and expanded on it by specifying that such regulations could be made respecting:

> (a) the terms and conditions under which persons who have received financial assistance to enable them to obtain passage to Canada or to assist them in obtaining admission to Canada may be admitted to Canada;

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[243] Chapter 145, s. 4.

[244] In s. 5.

(g) the prohibiting or limiting of admission of persons by reason of

- (i) nationality, citizenship, ethnic group, occupation, class or geographical area of origin,
- (ii) peculiar customs, habits, modes of life or methods of holding property,
- (iii) unsuitability having regard to the climatic, economic, social, industrial, educational, labour, health or other conditions or requirements existing, temporarily or otherwise, in Canada or in the area or country from or through which such persons come to Canada, or
- (iv) probable inability to become readily assimilated or to assume the duties and responsibilities of Canadian citizenship within a reasonable time after their admission.

It appears that this regulatory power was abundantly used by the Governor-in-Council. According to Mr. M.H. Brush, of the Canada Employment and Immigration Commission,[245] at the end of the war there was a danger of recession and unemployment, there was a lack of transportation across the Atlantic, there was a considerable shortage of housing: "so the government chose to move very slowly in opening up immigration".[246]

The following orders should be noted concerning prohibited classes (they are considerably summarized here):

NUMBER	DATE	SUMMARY
2653	14 September 1939	Prohibits, under the *War Measures Act*, enemy aliens and nationals of any territory now occupied by an enemy country.
3547	21 May 1941	Deletes "nationals, etc.," from previous order, thus leaving prohibition in force against enemy aliens only.
1373	9 April 1946	Replaces two previous orders with similar provisions taken under *Immigration Act*.
2908	31 July 1947	Removes nationals of Finland, Hungary, Italy and Romania from prohibition of Order-in-Council 1373.
4850	26 November, 1947	Order-in-Council 1373 as amended is revoked. General prohibition against enemy aliens is renewed, except against four above-mentioned countries.
1606	28 March, 1950	Order-in-Council 4850 is revoked. General prohibition against enemy aliens is renewed, with three narrow exceptions.

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[245] Evidence, vol. II, p. 212 *ff.*

[246] *Ibid.*, p. 218.

4364	14 September 1950	Order-in-Council 1606 is revoked. Prohibition against nationals of Germany is lifted, but maintained against other enemy aliens (in practice, nationals of Japan).
3689	31 July 1952	Order-in-Council 4364 is revoked.

Thus, if one were to base a conclusion on those Orders-in-Council only, it would appear that the prohibition against entering Canada was in force against all enemy aliens until 31 July 1947; from that date it was lifted in favour of nationals of Finland, Hungary, Italy and Romania; it remained in force against nationals of Germany until 14 September 1950; it was finally revoked generally on 31 July 1952. But those Orders-in-Council — to which the Immigration Act itself must be added — do not tell the whole story. Other instruments such as Cabinet directives and internal regulations added their own impact. They were rooted, of course, in the Allied Control Council Directive Number 38 of 14 October 1946 (exhibit P-34). Article 1 of Part II of the Directive said:

> *Groups of Persons Responsible*
>
> In order to make a just determination of responsibility and to provide for imposition (except in the case of 5 below) of sanctions the following groupings of persons shall be made.
>
> 1) Major offenders;
>
> 2) Offenders (activists, militarists, and profiteers);
>
> 3) Lesser offenders (probationers);
>
> 4) Followers;
>
> 5) Persons exonerated. (Those included in the above categories who can prove themselves not guilty before a tribunal).

Part I of appendix A gave a long list of "major offenders" which, in paragraph O, included "war criminals".

It is not surprising, therefore, that one would find, in early 1949, a classification which had already been made of the grounds for rejection of immigration applications.[247] Among the thirteen grounds therein listed, one finds:

> (b) Member of SS or German Wehrmacht. Found to bear mark of SS Blood Group (Non Germans).
>
> (c) Member of Nazi party.
>
> (h) Evasive and untruthful under interrogation.
>
> (i) Failure to produce recognizable and acceptable documents as to time of entry and residence in Germany.
>
> (j) False presentation; use of false or fictitious name.

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[247] Exhibit P-35, document no. 16, Department of Mines and Resources, 7 February 1949.

A few months later, on 28 October 1949, a Cabinet Directive[248] was addressed to "All Government Departments and Agencies Concerned" with the rejection of immigrants on security grounds. The Directive gave as examples of applicants to whom a visa is refused, "Communists, members of the Nazi or Fascist Parties or of any revolutionary organization, 'collaborators', and users of false or fictitious names or documents".

Following Order-in-Council 4364 of 14 September 1950, the Department of Citizenship and Immigration issued its official circular No. 72A[249] which announced that "German nationals will now be dealt with on the same basis as any other European nationality".

This, in turn, was quickly followed by an internal memorandum of 1 December 1950,[250] advising that:

> We have received advice from the R.C.M.P. that they have today cabled their Security Officers that membership in the Nazi Party will not in itself be a cause for exclusion. This for your information.

We will now witness the interventions of yet another body: the Security Panel and its own Sub-Panel. A word of explanation appears apropos: it will be taken from the evidence of a retired government security officer, Mr. G.F. Frazer:[251]

> The Panel was established just after the war, 1946, I believe, to serve as an advisory body for the government on security policy and procedures, to prepare policy memoranda and suggestions for the consideration of the government, and also to co-ordinate security practices and procedures within the government. It was perceived, I think, at that time that there was a great need for that and that there were discrepancies in procedures, where they existed, and so on. I think those were the main functions of the Panel.
>
> If one refers to the minutes of the first meeting, it is interesting that it was emphasized it was not an executive body; it was purely advisory.
>
> The Panel went on by itself until 1953. At that point the Sub-Panel was established really to assist the Security Panel. It dealt with the same matters, but it had more time, I would say, to deal in greater thoroughness with matters. Also, it could deal with matters of detail that it was deemed should not be brought before the Panel, which was made up of senior officials.
>
> So, the Panel really dealt with the important matters of policy and the Sub-Panel with more detailed and less important matters. The Sub-Panel dealt through the Secretariat in the Privy Council Office with government departments and agencies very closely, particularly with the security officers.

According to Mr. Frazer, the minutes of the Security Panel with "reference to matters of immigration" cover the period of 24 June 1946 to 20

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[248] Circular no. 14: Rejection of Immigrants on Security Grounds — Privy Council Office.
[249] In exhibit P-35, document no. 21.
[250] *Ibid.*, document no. 22.
[251] Evidence, vol. XV, p. 1862, at p. 1869.

October 1952, and those of the Sub-Panel, from 12 May 1953 to June 1962.[252] Mr. Frazer's explanation is the following:[253]

> If I may speculate a little, I think I could say that, in my view, it probably was deemed unnecessary for the Committees to meet because the great lines of policy had been established in that period and the Security Secretariat could deal with problems that came up within the context of the policy approved, could deal with problems raised by departments. I cannot swear to all that, but I would think that would be the situation.

In view of an upcoming meeting of the Security Panel in the summer of 1951, the Immigration Branch prepared an analysis which contained the following comments concerning rejection grounds (b) and (c): membership in SS or in Nazi Party:[254]

> Category "B"
>
> Approximately 40% of all security rejections have been effected under this category. Of these rejections, approximately 50% have been reviewed and in about 65% of these cases the security rejection has been withdrawn. The reason for the high percentage of favourable reviews is the result from change in policy respecting German Nationals (and Volksdeutsche) as set forth in P.C. 1606, thereby excluding service in the German Army as a reason for security rejection. The number of applications for review covering persons previously rejected for such service is steadily increasing and favourable reviews are being effected in nearly all cases.
>
> The only remaining obstacle under category "B" is service in the Waffen S.S. I believe R.C.M.P. are prepared to give some consideration to cases involving compassionate grounds and when age on enlistment and/or circumstances surrounding enlistment would appear to warrant consideration. In my personal opinion, Waffen S.S. rejections in accordance with present regulations have been based, with some exceptions, on public sentiment in Canada as a result of World War II, rather than the fact the authorities would consider the individual concerned a security risk in Canada at the present time. I believe service in the Waffen S.S. should no longer be a blanket cause for security rejection, provided each case is judged on it's (sic) individual merits and the authorities concerned are satisfied the prospective immigrant would not present a security risk in Canada at the present time and, provided the prospective immigrant's service in the Waffen S.S. was not of an objectionable nature.
>
> Category "C"
>
> Approximately 25% of all security rejections have been affected under the above category. Of these rejections, approximately 35% have been reviewed and in about 95% of the cases reviewed the security rejection has been withdrawn. With very few exceptions, Category "C" is no longer considered a reason for security rejection and all cases which come to our attention may be referred to R.C.M.P. for re-consideration.

The Security Panel met on 5 July 1951, and the Deputy Minister of Citizenship and Immigration issued the following memorandum:[255]

> At the last meeting of the Security Panel on July 5, the rejections on Grounds of "B" for security reasons have been reviewed and the following decisions have been reached:
>
> *GROUNDS OF "B"* are to be modified to read:

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[252] *Ibid.*, p. 1864.

[253] *Ibid.*, p. 1870.

[254] Exhibit P-35, document no. 24, 17 May 1951.

[255] *Ibid.*, document no. 25.

> Non-German members of S.S. found to bear mark of S.S. blood group;
>
> Non-German members of Waffen S.S. who joined this force prior to 1943 and are found to bear marks of S.S. blood group;
>
> Non-German members of Waffen S.S. found to bear marks of S.S. blood group who voluntarily joined after the 1st of January 1943.
>
> (In the case of those who were forced to join or were conscripted after the 1st of January 1943, this will not be an automatic rejection).

During the years which followed, there was considerable activity concerning the rejection criteria: witness the numerous documents in exhibit P-35. Suffice it to say that, generally speaking, membership in the Gestapo, status of a major offender, and service as a concentration camp guard, remained grounds for automatic rejection according to the Security Sub-Panel recommendations of 1955.[256]

Finally, through the 1960s and early 1970s, the *Immigration Manual* stated under the heading "Criteria for Rejection of Independent Applicants on Security Grounds":

> Reason:
>
> (b) Member of SS or German Wehrmacht. When non-German found to bear mark of SS Blood Group.
>
> Interpretation:
>
> Former membership in the German SS, SA and Waffen SS should not be considered cause for automatic rejection whether or not the applicant is sponsored by relatives in Canada; and each case should be studied to ascertain whether or not the individuals joined these organizations voluntarily;
>
> Reason:
>
> (c) Nazi.
>
> Interpretation:
>
> Former membership in the Nazi Party should not be considered an automatic cause for rejection, but former members of the Nazi party who are considered by the R.C.M. Police to constitute a real security risk should continue to be rejected;[257]

The Commission accordingly, *FINDS THAT*:

33- The grounds for revocation of citizenship are, in most cases, those enumerated in the 1946 *Canadian Citizenship Act*: false representations, fraud, or concealment of material circumstances.

34- Those grounds should be applied both to the citizenship process and to the earlier immigration process.

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[256] Meetings of 16 June 1955 and 18 October 1955 in exhibit P-76. For a study of the actual application of those recommendations, see report by Mrs. Alti Rodal prepared for the Commission.

[257] Exhibit P-35, document P.

35- Those grounds should be tested against the relevant statutes, Orders-in-Council, Cabinet Directives, Immigration, Security and Police regulations.

3. Evidence

The burden of proof, the nature, civil or criminal, of the process and the rule on the probationary value of the evidence: those three principles must be made clear before embarking on a study of the various problems which the question of evidence raises. The courts have settled those three questions abroad, but not so explicitly in Canada. In view of the similarity in the basic foundations of the legal regimes in matters of citizenship and immigration in the United Kingdom, the United States of America and Canada, it is legitimate to look at the solutions which have been retained elsewhere and compare them to our domestic situation.

In the U.S.A., the civil nature of the process leading to revocation of citizenship has never been put in doubt. Indeed, it has recently been restated by the U.S. Court of Appeals for the third circuit in **United States v. Kowalchuk.**[258] Nor has it ever been questioned that the burden of proof falls on the prosecuting government. It follows that the government must prove its case in accordance with the rule which avails in civil matters: according to the balance of probabilities. But — as was indeed stated recently in the United Kingdom — this rule must be interpreted and applied with "flexibility". The Supreme Court of the United States has stretched the rule to the extreme when it decided in **Schneiderman v. United States** [259] that "the evidence must be clear, unequivocal and convincing", and that the revocation of the grant of citizenship "cannot be done upon a bare preponderance of evidence which leaves the issue in doubt". Indeed the distinction is quite fine between the criminal rule that proof of guilt must be made "beyond a reasonable doubt" and a civil rule that proof must be adduced so as "not to leave the issue in doubt"!

Be that as it may, the U.S. Supreme Court has reaffirmed that doctrine in **Fedorenko v. U.S.,** [260] a war criminal case. It referred to the "heavy burden of proof" resting on the government and added: "[a]ny less exacting standard would be inconsistent with the importance of the right that is at stake in a denaturalization proceeding".

In the United Kingdom, the House of Lords discussed at length those issues in **Khawaja v. Secretary of State for the Home Department.** [261] The case involved the deportation of an allegedly illegal immigrant. The House affirmed the civil nature of the case and the government's obligation to establish its case. It naturally followed by adopting the civil standard of a "preponderance of probability". There, however, intervened a new factor: flexibility. Lord Scarman put it as follows:[262]

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[258] 744 F.(2d) 301, 11 September 1984.

[259] (1943) 320 U.S. 118, at. p. 125.

[260] 449 U.S. 490, at p. 505.

[261] (1983) 1 *All E.R.* p. 765.

> My Lords, I would adopt as appropriate to cases of restraint put by the executive on the liberty of the individual the civil standard flexibly applied in the way set forth in the cases cited; and I would direct particular attention to the words of Morris LJ already quoted.

Those words went as follows:[263]

> [N]o real mischief results from an acceptance of the fact that there is some difference of approach in civil actions. . .the very elements of gravity become a part of the whole range of circumstances which have to be weighed in the scale when deciding as to the balance of probabilities.

Lord Fraser of Tullybelton added:[264]

> With regard to the standard of proof, I agree with my noble and learned friend Lord Scarman that, for the reasons explained by him, the appropriate standard is that which applies generally in civil proceedings, namely proof on a balance of probabilities, the degree of probability being proportionate to the nature and gravity of the issue. As cases such as those in the present appeals involve grave issues of personal liberty, the degree of probability required will be high.

Lord Bridge wrote:[265]

> The question about which I have felt most difficulty concerns the standard of proof required to discharge that onus. I was at first inclined to regard the judgment of Lord Parker CJ in "Ahson's" case as sufficient authority for the proposition that proof is required beyond reasonable doubt. But I have been persuaded by the reasoning on this point in the speech of my noble and learned friend Lord Scarman and by the authorities which he cites that that proposition cannot be sustained. These have led me to the conclusion that the civil standard of proof by a preponderance of probability will suffice, always provided that, in view of the gravity of the charge of fraud which has to be made out and of the consequences which will follow if it is, the court should not be satisfied with anything less than probability of a high degree.

Finally Lord Templeman said:[266]

> I agree with my noble and learned friend Lord Scarman that the burden of proving that leave to enter was obtained by fraud and that consequently the entrant is an illegal entrant liable to arrest and expulsion can only be discharged by the immigration authorities manifesting to the satisfaction of the court a high degree of probability.

The British standard, a probability of a high degree, is very demanding; yet it appears to fall somewhat short of the American rule: clear, unequivocal and convincing... not leaving the issue in doubt, which is tantamount to adopting the criminal law standard. Lord Scarman expressed it best when he wrote:[267]

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[262] *Ibid.*, p. 784.
[263] *Ibid.*, p. 783.
[264] *Ibid.*, p. 772.
[265] *Ibid.*, p. 792.
[266] *Ibid.*, p. 794.
[267] *Ibid.*, p. 783.

> My Lords, I have come to the conclusion that the choice between the two standards [civil or criminal] is not one of any great moment. It is largely a matter of words. There is no need to import into this branch of the civil law the formula used for the guidance of juries in criminal cases. The civil standard as interpreted and applied by the civil courts will meet the ends of justice.

In Canada, only a few months ago the Supreme Court, without actually using the expression, has acknowledged the existence of the "flexibility principle" in applying the probability standard to civil matters.[268] Chief Justice Dickson, writing for the Court, said (p. 39):

> Within the broad category of the civil standard, there exist different degrees of probability depending on the nature of the case.

The Commission has, however, been unable to find any case where all three previously mentioned questions would have been given full consideration. Indeed, there is a dearth of authorities dealing with revocation of citizenship, if one excepts the matter of **Re Gray and Mooney** [269] where, dealing with the power of the Secretary of State to declare that a person has ceased to be a Canadian citizen, the Court stated that the exercise of such a power "leads to serious consequences" (p. 185).

But, as we have already seen, citizenship and immigration are, under certain aspects, intimately linked, and there exists a substantial jurisprudence in the field of immigration. The civil nature of those proceedings has never been questioned[270] (unless a prosecution be based on an obviously penal section of the Act). The civil rule of balance of probabilities has also been accepted. In **Jolly v. Minister of Manpower and Immigration,** [271] Chief Justice Thurlow, rendering the judgment of the Federal Court of Appeal, expressed himself as follows (p. 282):

> Conversely, a finding that, on the evidence before the Board, *on balance of probabilities* the Black Panther Party was not an organization that at the material times advocated subversion by force, etc., in my opinion, implies that *on balance* there are not reasonable grounds for believing the Party to have been such an organization.

(emphasis added)

In **Alemao v. Minister of Manpower and Immigration,** [272] Mr. Justice Pratte, rendering the judgment of the Federal Court of Appeal, wrote (p. 186):

> The Special Inquiry Officer cannot be said to have failed to apply and follow *the normal rules of evidence*; in so doing, he was acting in accordance with s. 26(3).

(emphasis added)

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[268] **The Queen v. Oakes,** S.C.C., 28 February 1986.

[269] (1976) 67 *D.L.R.* (3d) 182, Federal Court, Trial Division, (Addy, J.)

[270] See: **De Bernonville v. Langlais,** (1951) *C.S.* 277, p. 279; **Minister of Manpower and Immigration v. Brooks,** (1974) *S.C.R.* 850, p. 854; **Jolly v. Minister of Manpower and Immigration,** (1976) 7 *N.R.* 270, p. 284, Federal Court of Appeal.

[271] See footnote 270.

[272] (1977) 12 *N.R.* 184.

In **Dilday v. Minister of Manpower and Immigration,** [273] the Chairman referred, (p. 345), to the "burden being in accordance with the ordinary standards of civil proof".

In **Cheung v. Minister of Employment and Immigration,** [274] Mr. Justice Urie, while sharing the views of his two colleagues of the Federal Court of Appeal, added the personal observation that, in the administration of the *Immigration Act*, (p. 772):

> as a first principle, it seems to me that it is incumbent upon the Adjudicator to be sure that he bases his decision on the best evidence that the nature of the case will allow.

Given those basic ingredients, one finds no explicit pronouncement in Canada similar to those found in **Schneiderman** in the U.S.A. or **Khawaja** in the United Kingdom relative to the quality of the evidence necessary to lead to denaturalization or deportation. Those foreign pronouncements commend themselves, however, to this Commission; they flow from principles with which our legal system is familiar, and they supply the answer to the concern expressed by the Canadian courts over "the serious consequences" arising out of such proceedings, either for the citizen or for the immigrant.

Pursuing the matter a step further, the Commission is of the view, with all due respect for the U.S. Supreme Court, that the British approach is more consistent with the civil nature of the process and the consequent choice of the civil standard of evidence: the courts should not be satisfied with less, but should not look for more than a probability of a high degree. This is also the position adopted by Professor S.A. Williams in her brief to this Commission.[275]

The Commission, accordingly *FINDS* that:

36- **Proceedings in denaturalization are civil in nature; the burden of proof lies on the government.**

37- **In their assessment of the evidence, the courts should not be satisfied with less, but should not look for more, than a probability of a high degree.**

Now, each case stands to be determined on its own set of facts, but it is probable that, generally, such cases against war criminals will raise some of the following issues:

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[273] (1971) 2 *I.A.C.* 340.

[274] (1981) 2 *F.C.* 764.

[275] Williams, study prepared for the Commission, "Deportation and Denaturalization of War Criminals in Canada", 1 September 1985, p. 30.

if based on the citizenship process:

false representations, etc., with respect to lawful admission to Canada or to good character;

if based on the immigration process:

false representations, etc., with respect to prohibited classes of immigrants.

In either case, the issue will revolve around the activities of the suspect during World War II and his declarations, or lack of them, to Canadian authorities in this respect. The following problems must then be solved:

i) What was the extent of the duty of the applicant?

ii) Is the relevant evidence available?

iii) Is there a presumption of fact against the applicant?

The Commission will examine those questions in the same order.

i) *What was the extent of the duty of the applicant*?

Under the 1946 *Canadian Citizenship Act*, the applicant had to "satisfy the court" of his lawful admission to Canada and of his good character: ss. 10.(1)(b) and (d). For that purpose s. 34 provided that the applicant

> shall produce to the Court such evidence as the Court may require that he is qualified and fit to be granted a certificate under the provisions of this Act.

Under the *Immigration Act*, c. 145, the applicant "shall first appear before and make application to an immigration officer at a port of entry for permission to enter or land in Canada and shall be detained for examination" and "shall answer truly all questions put to him by any officer when examined under the authority of this Act", ss. 34(1 and 2).

A substantially similar provision is found in ss. 20(1) and (2) of the *Immigration Act*, c. 325.

The question is whether there is on the applicant a "duty of candour" by the force of which he should volunteer information which may harm him.

The position does not appear to be different in citizenship and in immigration. In citizenship, the burden falls on the applicant to produce such evidence as the court may require. In immigration, his duty is to answer truly (or truthfully) all questions put to him. In both circumstances the law foresees that the applicant waits for the questions and ought to answer them truthfully; but the statutes impose on him no further obligation.

Whether this system implies an additional duty of candour on the part of the applicant is a question which has been considered in various quarters; contradictory answers have been given by at least one experienced public servant, lawyers and academics, law officers of the Crown, and Canadian and British courts.

Public Service

Ms. Lois Gile is Senior Nationality Law Advisor for Citizenship Registration of Secretary of State. She has worked in Citizenship Registration since 1963.[276] Considering the question from the point of view of citizenship, she answered as follows a question put by Mr. Matas:[277]

> Q. Another question I have is: Was there a duty to disclose, on behalf of an applicant, all relevant information?
>
> A. You mean by the applicant?
>
> Q. By the applicant.
>
> A. Not that I am aware.
>
> Q. You are not aware one way or the other on that?
>
> A. I am aware that he was required to answer the questions provided on the application form and that he was required to answer the questions put to him by the presiding judge. Other than that, I am no (sic) aware of any necessity to do anything.

Lawyers and Academics

Mr. Matas, in his brief (exhibit P-69) argues forcefully in favour of the existence of such a duty (pp. 58-61).

So does Ms. Williams in her opinion to the Commission:

> The caselaw in Canada indicates that an immigrant is under a duty to disclose fully all material facts. The controversial question is whether this duty extends to matters about which the immigrant is not questioned specifically. It is submitted that the duty does extend that far when the information is material to landing.

Mr. Bryk, in his opinion to the Commission, appears to take the opposite view (p. 7).

Law Officers of the Crown

The Right Honourable Pierre E. Trudeau, when he was Minister of Justice, rendered an opinion on 6 November 1967 with respect to the *Citizenship Act* in which he wrote:[278]

> There is nothing in the Act to indicate that an application for Canadian citizenship is in the nature of a confessional requiring the applicant to disclose all prior conduct, whether public or private, on his part which he knows or ought to know to be a "material circumstance" within the meaning of s. 19(1)(b).

After summarizing that opinion, the interdepartmental committee wrote in its 1981 memorandum: [279]

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[276] Evidence, vol. XIV, pp. 1761-1762.

[277] *Ibid.*, p. 1784.

[278] Quoted by the Honourable Mark MacGuigan in his opinion of 8 December 1983, exhibit P-103, p. 3.

[279] Exhibit P-77, p. 15, no. 19.

> there is no reason to question the soundness of the legal opinion interpreting that section.

The Honourable Mark MacGuigan, then Attorney General of Canada, wrote on 8 December 1983: [280]

> My predecessors have consistently expressed the view, *with which I agree*, that there is no "duty of candour" placed on applicants for immigration or citizenship.

(emphasis added)

Canadian and British Courts

Six modern judgments ought to be considered. They were all rendered under immigration legislation but, as was said earlier, provisions relating to citizenship are, in respect of the question we are considering, very similar and proceeding from the same philosophy.

The first judgment was rendered in 1973 by the Supreme Court of Canada in **Minister of Manpower and Immigration v. Brooks.** [281] For reasons expressed at length by the late Mr. Justice Laskin, the Court reversed the Board of Immigration appeal on three questions (which are foreign to the present issue), but confirmed the Board on the point which is being discussed here. The Board had said in part, (quoted at p. 869):

> *The lack of full, complete and detailed questioning by the immigration officers concerned*, the failure to make any background check on Brooks, the haste in landing him, *cannot affect his duty to disclose*, if the fact is material to the question of landing or no landing.

(emphasis added)

The Supreme Court had granted leave to appeal on five questions of law; question number five is the only relevant one here:

> 5. Did the Immigration Appeal Board err in law in deciding that the Respondent could not be deported under s. 19(1)(e)(viii) because it had not been proved that he was, at the time of his admission to Canada, in a prohibited class?

It may not be out of order to quote here Professor C.J. Wydrzynski, who stated in 1983[282] that that judgment "is particularly complex and obscure". This opinion is borne out by the convoluted analysis of the judgment which Mr. Matas has been obliged to make in his brief under the caption "a duty to disclose".[283] Be that as it may, the fact remains: the Court did not express its view as clearly as the Board had done. Mr. Justice Laskin wrote (p. 870):

> In my opinion, if the materiality of matters on which no questions are asked is cognizable under s. 19(1)(e)(viii), it would be under the words "other fraudulent or improper

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[280] Exhibit P-103, p. 2.

[281] See footnote 232, this chapter.

[282] Wydrzynski, *Canadian Immigration Law and Procedure*, Canada Law Book, Aurora, 1983, p. 187.

[283] Exhibit P-69, pp. 57-61.

> means". They are broad enough to embrace non-disclosure of facts which would be material to admission or non-admission if known.

(p. 872)

> I do not agree that the Board erred in refusing to find s. 19(1)(e)(viii) applicable whenever a false or misleading answer was given to a question, irrespective of whether it was or was not material to admission.

If the Commission is allowed so to say, the Court did not make the task of its readers easier when it gave to the fifth question the following answer (p. 874): "Q. 5: No, as this question was elaborated in argument."

In any event, one may conclude that the Supreme Court upheld the existence of a duty to disclose facts which are material to admission.

The second judgment to be considered was rendered by the House of Lords in 1980: **Zamir v. Secretary of State for the Home Department.** [284] The appellant, a citizen of Pakistan, had failed to disclose his marriage after obtaining a visa but before entering the United Kingdom: "he had been asked no question" was his explanation. An order of deportation was issued, against which he sought a writ of habeas corpus. His main argument was put, in short, as follows by the House of Lords (p. 949):

> The appellant's first contention is based upon this paragraph [paragraph 4 of schedule 2 of the *Immigration Act 1971*]: the immigration officer, he says, could have asked him if he was married, or if his circumstances had changed, but he did not. The appellant's only duty was to answer, if asked: he was under no duty to volunteer information.

The House rejected this interpretation. Lord Wilberforce wrote in particular (p. 950):

> I do not accept this contention: indeed, it cannot be too strongly repudiated. At the very lowest, an intending entrant must not practise a deception; (. . .) It can be no answer to a claim that such deception has occurred to say that no question was asked: paragraph 4 above merely confers a power, which carries a sanction if not complied with, and in no way derogates from a general duty not to deceive. I would, indeed, go further than this — a point so far left open in the Court of Appeal. In my opinion an alien seeking entry to the United Kingdom owes a positive duty of candour on all material facts which denote a change of circumstances since the issue of the entry clearance. He is seeking a privilege; he alone is, as to most such matters, aware of the facts: the decision to allow him to enter, and he knows this, is based upon a broad appreciation by immigration officers of a complex of considerations, and this appreciation can only be made fairly and humanely if, on his side, the entrant acts with openness and frankness.

The four colleagues of Lord Wilberforce agreed expressly with his reasons. Viscount Dilhorne added that he agreed (p. 951), "especially with his observations as to the duty of candour owed by aliens seeking entry to this country."

The third judgment was rendered by the English Court of Appeal in 1980, between the judgment of the Court of Appeal and that of the House of Lords in **Zamir: R. v. Secretary of State for the Home Department, ex parte Khan.** [285] The wind then appeared to blow in the opposite direction. Khan, an immigrant from Pakistan, had left his wife in their native country when he emigrated to England. When he landed at Heathrow airport, "Wendy Boden [the immigration officer] did not ask him his age. She did not ask him if he was married. She did not ask him if he was fully dependent on his father. If she had asked him, and he had told her that he was a married man, she would have refused him entry."[286]

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[284] (1980) A.C. 930.

Lord Denning then expressed the following view (p. 341):

> In the present case, I cannot see that Mangoo Khan was guilty of any fraud or misrepresentation at all. There had, it is true, been a change of circumstances. In 1972, at the age of 14, he was an unmarried and fully dependent son under 21 years; but in 1978 he was married and independent and over 21 years. That change of circumstances was such that the immigration officer might, under the immigration rules, have refused him leave to enter. But I do not know that he was under any duty to disclose this change of circumstances to the immigration officer, unless she asked him. She could see, by his passport, that he was over 21. Yet she did not refuse him on that account. By failing to ask any questions, she seems to have ignored any change of circumstances, or, indeed, to have waived any objection on that score.
>
> (...)
>
> This [1949 White Paper on Immigration, paragraph 14], suggests to my mind that, in a case such as the present, when the holder of an entry clearance presents himself, the immigration officer should examine him to see whether there has been a change of circumstances. It should not rest on the man to disclose it. I would hold that there is no duty of disclosure; and that, in the absence of deception, if the man is granted leave to enter, that leave is good. I would, therefore, allow this appeal and grant the habeas corpus.

Lord Denning wrote (p. 342) that "*Zamir* presents us with a problem". But he and his two colleagues found that the two cases could be distinguished on the facts. Yet with Khan we are moving away from the high duty set in Zamir.

The fourth judgment to be considered was rendered in 1981 by the Federal Court of Appeal: **Minister of Employment and Immigration v. Gudino.** [287] Here again, the applicant from Mexico failed to disclose a material fact, loss of his employment in Toronto, and argued that he had not been asked any question in this respect. The Federal Court of Appeal rejected this contention and relied largely on the House of Lords in **Zamir;** it concluded that the applicant had "breach[ed] 'the duty of candour' referred to by Lord Wilberforce in the *Zamir* case" (p. 752).

The fifth judgment on our list was rendered by the English Court of Appeal: **R v. Secretary of State for the Home Department, ex parte**

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[285] (1980) 2 *All E.R.* 337.

[286] Extract from the opinion of Lord Denning, p. 340.

[287] (1981) 124 *D.L.R.* (3d) 748.

Jayakody. [288] But it was then November, 1981, and the House of Lords had passed on **Zamir.** Lord Denning, after quoting from Lord Wilberforce's opinion in **Zamir,** said (p. 463):

> I can understand that an immigrant is under a positive duty to disclose material facts, but I do not think he is under a duty to disclose facts which are not material. What facts then are to be regarded as 'material facts'? I think that they are facts which are of a decisive character. They must be such that, if he had disclosed them, the Home Secretary would have been bound to refuse him entry or on which the Home Secretary would in all probability have refused him entry.
>
> (. . .)
>
> If the deception is neutral, as in our present case, it is not of such a decisive character and the leave to enter is not vitiated.

The two other members of the court agreed.

The last judgment which must be considered was rendered by the House of Lords in 1983: **Khawaja v. Secretary of State for the Home Department.** [289] The applicants were respectively of Indian and Pakistani origin. Again, the cases turned on concealment of marriage, one in India, the other in Belgium. Discussing the extent of the duty of disclose under the law, the House of Lords decided to disavow the theory of the "high duty of candour" which it had approved and applied in **Zamir.** Of special interest is the fact that Lord Fraser of Tullybelton and Lord Wilberforce sat on both appeals.

In **Khawaja,** the four colleagues of Lord Wilberforce agreed to depart from what Lord Wilberforce had written but two years before in **Zamir.** Lord Wilberforce could not be prevailed upon to recant; speaking of **Zamir** he wrote (p. 332):

> I ventured the opinion that a system of consideration of individual cases for the privilege of admission to this country can only work humanely and efficiently on a basis of candour and good faith on the part of those seeking entry. If here I trespassed on to the ground of moral judgment, I am unrepentant.

But Lord Fraser, who had agreed with Lord Wilberforce in **Zamir,** had now changed his mind; he wrote (p. 330):

> I agree also with Lord Bridge's observations on the passage in the speech of my noble and learned friend, Lord Wilberforce, in *Reg. v. Secretary of State for the Home Department, Ex parte Zamir* [1980] A.C. 930, 950 where Lord Wilberforce expressed the opinion that an alien seeking entry to the United Kingdom owes "a positive duty of candour on all material facts which denote a change of circumstances since the issue of the entry clearance." The opinion was not a necessary part of the reasoning leading to Lord Wilberforce's conclusion, but was obiter. At the time when his speech was delivered I agreed with all of it including that passage, but further reflection, in the light of the arguments in the present appeals, has convinced me that it would be wrong to construe the Immigration Act 1971 as if it imposed on persons applying for leave to enter a duty of candour approximating to uberrima fides.

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[288] (1982) 1 *All E.R.* 462.

[289] (1983) *W.L.R.* 321.

Lord Scarman put the same idea another way (p. 340):

> The Immigration Act does impose a duty not to deceive the immigration officer. It makes no express provision for any higher or more comprehensive duty: nor is it possible in my view to imply any such duty. Accordingly I reject the view that there is a duty of positive candour imposed by the immigration laws and that mere non-disclosure by an entrant of material facts in the absence of fraud is a breach of the immigration laws.

Finally Lord Bridge wrote (p. 350):

> In so far as the passage in the speech of my noble and learned friend Lord Wilberforce in Zamir's case at p. 950 may be understood as imposing on an applicant for leave to enter a duty of candour approximating to uberrima fides the breach of which would have the same effect as fraud, it cannot, I think, be accepted. If intended in that sense, it was obiter, was not supported in the present case by Mr. Brown for the Secretary of State and, as I understand, does not now find favour with my noble and learned friend Lord Wilberforce himself.

In his brief of 29 July 1986, entitled "The Duty to Disclose", Professor Cotler has argued that the British and the Canadian schemes are different to the point "that the interpretation of the Act in **Khawaja** is not pertinent to an interpretation of the Canadian Act". (p. 8) The Commission is not prepared to agree that there would exist between the two schemes such basic material differences; it accordingly prefers to rest its opinion on a comparative analysis of what it considers to be the relevant jurisprudence.

From this jurisprudencial pilgrimage, it is regrettable that the picture which emerges is somewhat blurred. In a few words, the courts have decided over a recent ten-year period as follows:

Brooks	(Canada): There is a duty to disclose material facts, even in the absence of questions;
Zamir	(England): There exists a high duty of candour on all material facts;
Khan	(England): There exists no duty to disclose in the absence of questions (saving deception);
Gudino	(Canada): Relies on **Zamir** (non-disclosure was material);
Jayakody	(England): There is a duty to disclose material facts;
Khawaja	(England): **Zamir** went too far and is disapproved; entertains even non-disclosure of material facts (saving fraud or deception).

Faced with such conflicting views by a public servant, lawyers and academics, law officers of the Crown and the highest courts, the Commission finds itself in the invidious position of having to make a choice: so it will.

On the one hand, the applicant can be held to no duty beyond that imposed by the relevant statute: submit to questions, then answer truthfully.

However, that process must take into consideration a particular ground for denaturalization: concealment of material circumstances. There, a duty of candour emerges: no information may be withheld, even absent any relevant question, which is material to the disposition of the application.

This conclusion is consonant with the burden which ss. 8(1) of the *Immigration Act, 1976* imposes on the applicant:

> 8. (1) Where a person seeks to come into Canada, the burden of proving that he has a right to come into Canada or that his admission would not be contrary to this Act or the regulations rests on him.

The Commission accordingly *FINDS* that:

38- With respect to both immigration and citizenship, the applicant is under no other duty than to answer truthfully the questions put to him by the statutory authority; in so doing, however, the applicant ought to acknowledge a duty of candour implied in his obligation not to conceal circumstances material to his application, even absent any relevant questions.

ii) *Is the relevant evidence available*?

The judicial process aimed at the revocation of citizenship of a suspected war criminal will involve a comparison between his actual activities during World War II and his declarations to the Canadian authorities for purposes of immigration or citizenship. The purpose of the exercise will be to find whether there was, in the process, false representation or fraud or concealment of material circumstances.

As to the suspect's activities during the war, numerous archival depositories are available in Europe and in America, which should provide useful information in those cases where the suspect did indeed hold official functions or participate in organized operations. Furthermore, there may remain eyewitnesses of those activities. Finally, since the proceedings for revocation of citizenship are civil in nature, as we established before, the rules of civil procedure will apply: the suspect cannot refuse to testify for fear of incriminating himself[290] and he may be summoned for examination on discovery.

Of course, each case must be assessed individually but, difficult as it may be, establishing the activities of a suspect during World War II should not prove, in most cases, an insurmountable task provided the government be prepared to appropriate the necessary human and financial resources.

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[290] See discussion of this question in the Commission's decisions: appendices I-N and I-O.

Strangely enough, the other side of the coin, proof of the declarations of the suspect for purposes of immigration or citizenship, may be more elusive or fruitless.

First of all, a general finding: proof of citizenship declarations is more readily accessible; but it is proof of immigration declarations which would probably be more useful.

Citizenship declarations

Samples of the various forms in use since World War II for application for citizenship have been filed together as exhibit P-74; there are five of them:

Form C	In use from 1947 to early 1950s;
Form CR-3	In use from 1950-1951 to 1959-1960;
Form CR-303	In use from 1960-1961 to 1974-1975;
Form CR-304	In use from 1975-1976 to 1983;
Form SEC 3-46	In use from 1983 to date.

On none of those forms does the Canadian government show any curiosity about the activities of the applicant prior to his landing in Canada. Even the one question dealing with commitment to jail or mental hospital is limited to Canada, except on Form CR-304. In this connection Ms. Gile testified as follows:[291]

> Q. Now, looking at Question 17 on 304 I notice here that the question has been rephrased and broken down into A, B, and C with some changes. The principal change would appear to be there is no reference to Canada any more.
>
> A. That is correct, yes.
>
> Q. Are you aware of whether that came about as a result of any change in policy, or was the policy still the same as far as you know?
>
> A. As far as I am aware there was not any policy shift. It may have been an error in making up the form.

Indeed, the restriction to Canada reappeared in the 1983 form, explicitly in question number 7 and implicitly in question number 6.

Of course, those prior activities must be taken in consideration for the purpose of establishing the "good character of the applicant". On Form C — the earliest one — the topic was dealt with in the form of a direct statement by the applicant: "16. I am of good character." In the three successive forms 3, 303 and 304, the matter was left to the appreciation of the presiding judge who had to give his certificate. On the last form the question was suppressed: the new Act left the matter to an objective test.

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[291] Evidence, vol. XIV, p. 1770.

The law gave no guidelines to help reach a decision on the character of the applicant. However, the department published a brochure in 1947 entitled "How to become a Canadian Citizen".[292] It contained the following significant passage (p. 13):

> 19. The Applicant's Character:
>
> At the final hearing an inquiry is made into the applicant's character and criminal record. It is very important for an applicant seeking citizenship to have a clean record of good behaviour, since a person who has been convicted of any major crime might find it difficult to get Canadian citizenship. The definition of "good character" raises a point involving wide differences of opinion as some judges are more strict than others. The final decision, however, rests in the hands of the individual judge who must decide whether or not the applicant has fulfilled the requisites of good character.

It must be remembered that this official statement was issued by the government shortly after the war and remained in force during the first period of years when war criminals might have tried to enter Canada.

A new brochure was published in 1950.[293] In its paragraph 17, it repeated the first half of the above-quoted text. However, it did away with the reference to "wide differences of opinion", but added the mention of the discretion of the Minister.

In 1956, yet a fresh brochure was published.[294] It said in its paragraph 5, in its relevant part:

> An applicant appearing for examination before the Court must satisfy the Judge that the information supplied in his Application is correct; and in addition that he is of good character.

In 1963, substantially the same text appeared in the expanded brochure then produced by the department.[295]

So it appears that the first two brochures referred expressly to "conviction of any major crime" in relation to good character, while the last two left the matter entirely with the discretion of the presiding judge. Be that as it may, the decision of the judge cannot help; the forms provided that the judge merely had to express his opinion by 'yes' or 'no'. What questions the judge had put to the applicant — it is impossible to know; no records of the applicant's examination were kept and there was no uniformity of practice among the judges. Ms. Gile testified that it varied from court to court quite a bit.[296] She had already stated:[297]

> Whose decision was it, whether the person was of good character?

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[292] Exhibit P-106.

[293] *Ibid.*

[294] *Ibid.*

[295] *Ibid., Guide to Canadian Citizenship*, p. 88.

[296] Evidence, vol. XIV, p. 1797.

[297] *Ibid.*, pp. 1774-1775.

> A. The presiding officer of the court where the applicant made his or her application.
>
> Q. Are you able to tell us to your knowledge what type of examination or the extent of any examination was made by the presiding officer of good character of an applicant?
>
> A. No, I am not able to tell you that because it was — the requirement was to be of good character. There were no guidelines given to assist the presiding officer in determining what good character was. So, therefore, it became the individual judgment of the presiding officer.

And Ms. Gile added for good measure:[298]

> Q. But do you have any record of what questions were put by the presiding judge?
>
> A. No.

This is borne out by the report of the Interdepartmental Committee:[299]

> In the normal course, citizenship judges asked no questions about the personal history of applicants prior to their arrival in Canada in connection with the issue of fitness.

Essentially the department and the citizenship judges appear to have taken for granted that this whole question must have been dealt with satisfactorily during the immigration process.

As an overall conclusion, the Commission accordingly *FINDS* that:

39- **Applications for citizenship are available from the earliest times; they are not likely, however, to yield useful results for the purpose of unveiling war criminals and leading to the revocation of their citizenship.**

Immigration Declarations

The Commission has been supplied with samples of the various forms in use for immigration purposes after World War II. Until the end of 1946, according to Mr. George O'Leary, Chief, Program Guidelines for Immigration,[300] "there was no application processing abroad at all".[301] At most, some people may have come forward "under ministerial authority to permit entry by Order in Council".[302] So there was no official form available until 1947. Then during the next 12 years, half a dozen forms were put in use:

IMM-55	January 1947 to November 1950;
IMM-OS.8	Late 1950 to early 1951;
IMM-OS.8 (1951 rev.)	Early 1951 to April 1953;

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[298] *Ibid.*, p. 1784.

[299] Exhibit P-77, p. 13, no. 19.

[300] Evidence, vol. V., p. 628.

[301] *Ibid.*, p. 630.

[302] *Ibid.*, p. 631.

IMM-OS.8 (1953 rev.)	April 1953 to early 1954;
Green Form	Early 1953;
IMM-OS.8 (1954 rev. twice)	1954 to at least 1959;[303]

Form 55, in use until the end of 1950, contained no question respecting the wartime activities of the applicant.

The original OS.8 form inquired about the jobs of the applicant during the previous 10 years: this might have led to disclosure of military activities, though nothing was asked expressly on the subject.

The 1951 revision of Form OS.8 did not inquire any further.

The 1953 revision, however, marked a substantial departure from, not to say a serious improvement over, the previous form: a half page was devoted to a detailed questionnaire on employment or military service, year by year from 1938 through 1954.

It must be interpolated here that in 1953 a landing form was put in use for the first time, to be completed by the immigrant: IMM-1000.[304] It is still in use, after some seven revisions. For the first time an official questionnaire asked the immigrant: "17. Have you been convicted of a criminal offence?"[305] But no question was put concerning the immigrant's military record, if any. Yet that question appeared on the 1953 revision of Form IMM-OS.8.

Returning to the above list of forms, the Green Form contained no question relevant to our topic. It had been developed by the RCMP and must be filled concurrently with Form OS.8.

Finally, the last revision of Form OS.8, in 1954, contained again the same questionnaire on employment or military service; a curious development occurred, however, for which the Commission has heard no explanation. It was underlined as follows by Mr. O'Leary:[306]

> Q. Was there any inclusion of wartime military service?
>
> A. Yes, that remained a part of that application on pages 3 and 4. One item you might notice is that in that revision they deleted 1938 and 1939 and went from 1940 to 1956. I guess the people drafting the form were looking only in terms of the validity of the form itself, potential validity of it, and arbitrarily lopped off 1938 and 1939 which were crucial years. That is just my opinion; I am only guessing. It was away before my time.

It is obvious, therefore, that, contrary to the citizenship documentation the immigration forms contained, at least since 1953, questions which were bearing directly on the matter of wartime activities and should have prompted answers which, if false or deceitful, might have opened the door to revocation of citizenship through a finding of unlawful admission into Canada. A two-fold problem arises however:

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[303] See exhibit P-35, item Q, document nos. 1-6; O'Leary, evidence, vol. V, from p. 626.

[304] Exhibit P-72; see also O'Leary, evidence, vol. XIV, p. 1713.

[305] *Ibid.*, p. 7G.

[306] Evidence, vol. V, p. 664.

1. Before 1953, the immigration forms were as devoid of interest as the citizenship forms;

2. In any event, the immigration forms are not available — contrary to the situation in the U.S.A. where that evidence is available. But a word of explanation is necessary.

As can be readily understood, paperwork in the field of immigration is considerable: "From 1946 until 1984 inclusive, the total immigration movement to Canada was 5,282,299 immigrants".[307] During the same period "approximately 50 to 55 million applicants have applied to come to Canada as immigrants . . . worldwide".[308] Such a mass of applications evidently generated mountains of documents in the Department of Immigration but, after World War II, microfilming was still in its infancy. Systematic destruction of documents was seen as the only answer. Needless to say, other government departments were faced with the same problem: a general policy had to be settled. The Honourable Robert Kaplan, P.C., declared before this Commission:[309]

> It is a general policy of this government throughout history to try and destroy files when they are not operational any more.

In 1945, the government established a "Committee on Public Records"[310] whose duties were generally described as follows:

> 3. The duties of the Committee shall be to keep under constant review the state of the public records and to consider, advise and concert with departments and agencies of government on the organization, care, housing, and destruction of public records.

Paragraph 6 added however that primary responsibility should rest with the departments and agencies concerned. Actual destruction of records would be authorized by the Treasury Board.[311]

In 1961, the Committee was reorganized under Order-in-Council 212 (exhibit P-43). The situation did not essentially change. But in 1966 the Public Records Order[312] displaced the responsibilities while continuing the "retention and removal" policy: it provided that

> 4. With respect to public records in the custody of departments, the Dominion Archivist shall

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[307] Sabourin, evidence, vol. X, p. 1213; Immigration Statistics, exhibit P-53, p. 3.

[308] *Ibid.*, Sabourin, p. 1214.

[309] Evidence, vol. XX, p. 2649.

[310] Exhibit P-42: Order-in-Council P.C. 6175, 20 September 1945.

[311] Hayward, evidence, vol. X, p. 1151.

[312] Exhibit P-44, P.C. 1966-1749, 9 September 1966.

(a) assess all proposals to destroy records and approve such of those proposals as he considers to be in the public interest.

It provided further as follows:

8. (1) Each department shall

(b) submit to the Dominion Archivist any proposal to destroy records, other than those covered by existing schedules, or to remove records from the ownership of the Government of Canada;

(c) by May 1, 1969, submit for the approval of the Dominion Archivist retention and disposal schedules applying to all operational records.

Finally, on 22 March 1983 the Treasury Board issued its Circular Number 9 entitled "Records Management Policy" (exhibit P-46). Under the heading "The Public Archives", it provided that "the Dominion Archivist is responsible for assessing and approving proposals to destroy records or to remove them from the control of the Government of Canada."[313]

This policy is in force today.[314]

Now, under those general rules the department responsible for immigration has, over the years, submitted for approval schedules of destruction of documents. Those are quite detailed documents which seem to cover all imaginable circumstances. Immediately after the last war, the relevant instruments were Treasury Board Minutes 160481 (2 June 1936) and 260350 (16 March 1944).[315] The second one provided more particularly that landing records be destroyed after two years.[316]

In 1959, the Department of Immigration produced a schedule (exhibit P-48) showing the situation since the mid-1950s.[317] Article 4.03: "Schedule of Retirement" explained that appendix A applied in Canada and appendix B overseas. In appendix A, p. 1, item 1: "form 55 applications", the period of destruction is set at two to five years, depending upon certain specifications. On p. 2, item 3: "form 0S8 and 0S8(a) applications (or equivalent)", the period is set at one to five years "or longer". In appendix B, p. 1, item 1, sub-item (b) to (f) deals with forms 55 and OS8: the delay is fixed at from one to three years.

On 23 April 1964, the Public Records Committee approved a request for temporary authority to continue destruction on the basis of the 1936 and 1944 Minutes of Treasury Board (exhibit P-47).[318] Further authority was granted at a meeting of 30 July 1964 (exhibit P-50), which was approved by Treasury Board on 3 September 1964 (exhibit P-51). The approved schedule provides for a retention delay of two years in Canada and one year overseas in cases of "3 (a) Applications immigrant or non-immigrant (Other than Iran Curtain countries)" and a five year delay overall in cases of "3 (e) Applications immigrant or non-immigrant (Iron Curtain countries)."

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[313] Exhibit P-46, c. 460, item 1.4.2, p.3.

[314] Hayward, evidence, vol. X, p. 1162.

[315] Filed together as exhibit P-47.

[316] *Ibid.*, Hayward, p. 1184.

[317] *Ibid.*, Hayward, p. 1187.

[318] All relevant documents filed together as exhibit P-49.

In 1970, yet another schedule was approved by the Dominion Archivist (exhibit P-52) which "is strikingly similar to that of 1964".[319] Then, according to Mr. Hayward:[320]

> Essentially, the schedule of 1970 is intact today, with various amendments that have been made up and including 1984. Generally speaking, however, the schedule is the same. There are various amendments that have been made in the area of archival limitations, but that is the schedule as of today.

Such were the rules of the game during the whole of the period since World War II, and the Department of Immigration applied them overseas as well as at home.

Copies of relevant documents went back and forth between Canada and immigration posts in Europe: there they were also destroyed in agreement with the above-quoted retention schedules: "the file Retirement Schedule applied to both sides [of the Atlantic]".[321] Mr. A.L. Greening who, after serving in the army, spent eight years in Germany as an RCMP officer, testified:[322]

> If subsequently the person was cleared for security and a visa was issued for his entry to Canada, our entire file would subsequently be destroyed eventually, including those notes, the green forms, the OS-8, that we had received from the Immigration Officer. They would all be destroyed in due course.

In Canada, the retention and destruction rules are not just theoretical: Mr. L. Sabourin, Head of the Query Response Center in Immigration, testified:[323]

> These schedules are applied to our case files, both in Ottawa and in our field offices and overseas on a continuous basis.
>
> The program is a continuing one because of the volumes involved, and we apply those schedules continuously.

Mr. Sabourin added that files are not microfilmed before destruction,[324] specifically that forms IMM-0S8 are microfilmed neither at headquarters nor in the regions,[325] and that no record is kept of files destroyed, only of those kept in storage.[326]

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[319] Hayward, evidence, vol. X., p. 1203.

[320] *Ibid.*, p. 1204.

[321] O'Leary, evidence, vol. VI, p. 751; see also pp. 743-744-747.

[322] Evidence, vol. VIII, p. 1050; see also Robillard, evidence, vol. XI, p. 1277.

[323] Sabourin, evidence, vol. X, pp. 1233-1234.

[324] Sabourin, evidence, vol. XI, p. 1252.

[325] *Ibid.*, pp. 1227-1229.

[326] *Ibid.*

Thus it appears that immigration archives cannot be relied upon to furnish the information necessary to establish the factual basis essential to a successful attempt at revocation of citizenship.

It is true that copies of the same documents were sent to other government departments and agencies; but these also obeyed their individual retention and disposal schedules. The Commission will examine briefly the situation in External Affairs, RCMP and CSIS.

External Affairs

The general principles of retention and disposal have been applied during the whole period under consideration, i.e., since World War II. Mr. James McLaughlin, Improvement Records Officer and Training Officer with External Affairs, has explained the specific requirements of his department as approved by the Records Committee and the Treasury Board.[327] Essentially, they are stated in details in exhibit P-73. There is no interest in going into all the particulars; suffice it to state the following: under Circular B-114, 25 October 1950, authority to destroy was given concerning 31 categories of files "being dormant for five years". The following categories would be of interest for the work of the Commission:

1. Immigration
3. National Status, Revocation of Naturalization, etc.
12. Release from Internment
30. Applications for Post-War Work

Under c. 2, annex C of the department's *Manual for Post Abroad*, item 2 stated:

MATERIAL THAT POSTS ARE AUTHORIZED TO DESTROY

Type	Minimum Retention Period
D - visa records relating to "Immigration" and "Visits to Canada" maintained at some External Affairs posts on behalf of the Department of Manpower and Immigration	Period specified for each category

Particulars in the following chapter provided for a destruction delay, especially in cases of forms 55 and 0S8, of one year. There have been adopted no relevant amendments to date.[328] The records of External Affairs therefore no longer contain the documents which might have led to proceedings in revocation of citizenship.

RCMP: Royal Canadian Mounted Police

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[327] Evidence, vol. XIV, p. 1734 *ff.*

[328] MacLaughlin, evidence, vol. XIV, p. 1738.

The same general principles apply. By virtue of those, the RCMP had a record destruction policy in place at least since the 1940s — the Commission did not inquire into the situation before the last war. Assistant Commissioner W. John Wylie is Director of Informatics and, as such, responsible for records in the whole of the RCMP. He has filed as exhibit P-75 an impressive collection of some 130 documents purporting to give the full picture of destruction schedules and authorizations since the 1940s. Put very summarily, the longest retention period was five years; today it stands at three years.[329]

Here again the practical aspect is important, and it was stressed by Assistant Commissioner Randolph R. Schramm, Director of Criminal Investigations for the RCMP:[330]

> Yes, there was a normal and routine destruction policy, which is approved by the Dominion Archivist and files would be destroyed consistent with those instructions.

Mr. Wylie has added that the general retention period is now three years[331] after which, in principle, everything is destroyed including cards and index.[332]

It so happens, however, that the RCMP must observe two separate moratoria on the destruction of files which have been imposed: one by the McDonald Commission in 1977-1978 and partially lifted, the other by this Commission in April 1985[333] and in full force in effect. Mr. Wylie has affirmed:[334]

> We are not even destroying any of our financial records and it is a tremendous burden to keep. We are keeping every record.

But this does not improve the situation with respect to the 25-year period immediately following the war: the RCMP files cannot help any more than those we previously examined.

CSIS: Canadian Security Intelligence Service

CSIS is an independent agency which has succeeded the branch of the RCMP which dealt with security matters. This branch was known by various names over the years until it was dissolved: Special Branch, Security and Intelligence, etc. The files and records of this branch were eventually transferred to CSIS.

Mr. George Joseph Kelly has testified on the file destruction policy of CSIS and of its predecessor agencies. Mr. Kelly is Chief, Records Section of

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[329] Wylie, evidence, vol. XIV, p. 1805.

[330] Evidence, vol. VI, p. 832.

[331] Evidence, vol. XIV, p. 1807.

[332] Evidence, vol. XV, p. 1828.

[333] See exhibit P-75, Folio 1-7, Tab 22, Bulletin of 24 April 1985.

[334] Evidence, vol. XIV, p. 1807.

CSIS to which he transferred in July 1983; before that he had been a member of the RCMP for 27 years.

Mr. Kelly did not know of, nor could he give any information on the file destruction policy of the Special Branch of the RCMP before 1956.[335] He filed, however, as exhibit P-81 a whole series of documents beginning 2 August 1956 down to 19 January 1983.

In 1956, on the recommendation of the Public Records Committee, the Treasury Board authorized the destruction of RCMP files generally, with the following proviso:[336]

> The Board further directs that files of the Special Branch be destroyed only at the discretion of the Commissioner.

Shortly thereafter, the Commissioner of the RCMP exercised his discretion[337] by approving a "Retention and Disposition Schedule — Special Branch Records" (in exhibit P-81) which provided for retention periods of one and five years for security screening files. In 1960, instructions to posts abroad referred to delays of three months, six months and two years.

In 1982, the Department of the Solicitor General expressed the opinion that the 1956 Treasury Board Minute had been "repealed by implication" when the Public Records Order[338] came into force in 1966, and that the Archivist's approval was also required for any Destruction Schedule of the Security Service. This approval came in September 1982 and in January 1983 when, in cases of "individual files on proposed immigrants rejected under the provisions of the Immigration Act",[339] retention periods were fixed at five years, ten years or twenty years depending upon the record classification.

To complete this overview, it must be added that no files have been put on microfilm,[340] and that no record is maintained of material that is destroyed.[341] Now the whole system is presently on hold, because when this Commission was set up, the Solicitor General imposed a moratorium on the destruction of any of the files of CSIS: "nothing has been destroyed since", according to Mr. Kelly.[342]

Not surprisingly, the general conclusion concerning CSIS is not different from the one we have reached in the case of the RCMP: no material help can be expected from the files of CSIS, except possibly by accident.

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[335] Evidence, vol. XVI, p. 2058.

[336] T.B. Minute 506164.

[337] Kelly, evidence, vol. XVI, p. 2062.

[338] See footnote 312, this chapter.

[339] Exhibit P-81, last page.

[340] Kelly, evidence, vol. XVI, p. 2080.

[341] *Ibid.*, p. 2081.

[342] *Ibid.*, p. 2056.

In view of these negative results of the search for documentary evidence in the archives of Immigration, External Affairs, RCMP and CSIS, a question mark was raised concerning information on ships' manifests. Indeed, these were used as landing records since the 1800s up to 1953 when individual immigrant records came into being.[343] A sample of the relevant part of a ship's manifest was produced as exhibit P-71.

Those manifests are kept on microfilm.[344] But finding a particular name in order to check the information given on the manifest is an impossible job, unless one can furnish the Department with the name of the ship and the year in which it arrived; otherwise "it would be literally going through thousands upon thousands of pages of manifests trying to find one name"[345].

Furthermore, assuming that a given name is found on a manifest, one must not forget the point made by Mr. O'Leary:[346]

> Q. Are you able to tell us when this was normally completed by the immigrant?
>
> A. It wasn't completed by the immigrant. It was entered on the manifest by the ship's captain or ship's purser when they boarded the ship in Europe or elsewhere in the world. It was confirmed on arrival by the Immigration Examination Officer or the Customs Examination Officer.

Finally, it is far from sure that, assuming the answers could be attributed to the immigrants, they would give the information necessary for denaturalization proceedings. The only questions connected with prohibited classes were questions 22, 23 and 24 bearing on physical and mental health. No question dealt with military service or activities during World War II, and the question which came closest to this topic was question 18: "What trade or occupation do you follow in your own country?"

It is immediately apparent that no real relief can be expected from ships' manifests in the pursuit of evidence aiming at denaturalization.

The Commission accordingly *FINDS* that:

40- Applications for immigration and connected documents have been destroyed in large numbers over the years, consistently with retention and removal policies in force within Canadian government departments and agencies, more particularly Immigration, External Affairs, RCMP and CSIS, so that evidence for possible revocation of citizenship has become largely unavailable.

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[343] O'Leary, evidence, vol. XIV, p. 1710; Sabourin, evidence, vol. X., p. 1239.

[344] Sabourin, *ibid.*

[345] O'Leary, evidence, vol. XIV, p. 1731.

[346] *Ibid.*, p. 1711.

41- Recourse to ships' manifests, which have been microfilmed up to 1953, would be of little use, if any, in view of the absence thereon of questions relevant to the issue.

Some commotion was nevertheless caused when it was learned that a further lot of immigration files had been recently destroyed. Yet, O'Leary had stated before the Commission on 3 May 1985:[347] "The files are still being destroyed today. There is a file destruction schedule in process, yes."

The question arose in 1984 in the course of RCMP investigations concerning war criminals. According to information gathered and correspondence produced by the RCMP Commissioner, the RCMP had discovered that a relatively large number of immigration files which had been earmarked for destruction had not been actually destroyed, but kept by Employment and Immigration Canada until 1982, when they were destroyed in late 1982 and early 1983. Public Archives Canada had, however, requested that a ten percent sample be set aside for their purposes and chose the files of persons whose surname began with the letter "F". It appears that this decision was later changed in favour of "the random number generator selection", which produced files covering the period from 1946 to the 1970s.

On 22 May 1984 the Deputy Solicitor General wrote to the Minister (the Honourable Bob Kaplan):[348]

> The [RCMP] Commissioner's correspondence does not offer an opinion upon whether such destruction involved a culpable act, or was "simply" a monumental blunder. What is clear is that the loss of these records, whose destruction should not have taken place, has seriously impaired the ability of Canadian authorities, notably the RCMP, to investigate and take effective action against war criminals in Canada.

The Solicitor General, who had been assiduously working on the matter of war criminals, told the Commission of his immediate reaction:[349]

> We were absolutely furious about it. It just seemed incomprehensible at that particular time that my officials and the RCMP would be foiled that way, if I can put it in that expression, by a file destruction policy working in thin air.
>
> (. . .)
>
> I just went right down the hall to see him [Deputy Solicitor General Fred E. Gibson] when I got this letter and told him to go over and see Lussier, who was the Deputy Minister of Immigration, and tell him just how serious this was, and that I wanted the RCMP to find out, just to ask them, to find out what had happened and how it had happened, because they were the ones who were applying for this material.

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[347] Evidence, vol. VI, p. 758.

[348] Exhibit P-118.

[349] Evidence, vol. XX, pp. 2609 and 2611.

On 19 June 1984, the RCMP Commissioner wrote a long letter to Mr. Gaétan Lussier, Deputy Minister, Employment and Immigration Canada[350] where he concluded:

> As you can appreciate, if this matter is as it appears, the efforts of the RCMP in its investigation of alleged war criminals may have been inadvertently hampered through the destruction of these records. However, this is something to which we can only speculate, since the files are gone and we will never know what they contained.

In his reply of 20 July 1984,[351] Mr. Lussier appears to have made a distinction between immigration officials and records management staff and wrote:

> The facts, therefore, show that the immigration case files came into the possession of the Public Archives more by accident than design. Our immigration officials were apparently not aware of this situation.

The Commission was thus led to investigate this somewhat strange situation, under the cloud of rumours of a conspiracy to destroy files which might have compromised people suspected of war crimes. Over and above the evidence of Messrs. O'Leary and Sabourin, who were recalled, the Commission heard on this topic the following witnesses:

Terry Gordon Cook, Chief, Social Affairs and Natural Resources Records, Federal Archives Division;

Marcel Bourgault, Director, Recorded Information Management, Department of Citizenship and Immigration;

Jim Mallen, Director, Material Management, Employment and Immigration Commission;

Susan Bertrand, Records Services Officer, Employment and Insurance Records, Department of Citizenship and Immigration;

Gordon Lebeau, Retention and Disposal Analyst, Employment and Immigration Commission;

Gilles Pommainville, Chief, Ottawa Federal Records Centre, Records Management Branch, Public Archives;

Anthony Keenleyside, Barrister and Solicitor.

A first point must be made: regrettable as the destruction of a relatively large number of immigration files in 1982-1983 may have been, those files did not contain material which would have been very helpful in the hunt for Nazi war criminals. A self-evident reason was advanced in support of that statement by several of the witnesses basing themselves on a sampling of 19 boxes of those files which were retained before the destruction of the bulk of them: the files did not contain documents or information relating to events prior to the immigrant's landing in Canada or concerning his past military or criminal history: see the detailed evidence of Cook,[352] Bourgault,[353] Bertrand,[354] Lebeau.[355] Mr. Anthony Keenleyside, a junior counsel to the Commission, examined between 90 and 100 of those files;[356] he concluded:

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[350] Exhibit P-124.

[351] Exhibit P-123.

> Q. And what did you find in those files which could be of interest to this Commission?
>
> A. In my opinion I found nothing.

Let it be added, *en passant*, that Public Archives has put together a list of the names of the subjects of every file in the 19 boxes (there are 1,093 files in the sample; Cook).[357] Mr. Keenleyside compared each one of those names with the names of the suspects appearing on the Commission's Master List; "there were no names that matched".[358]

It is true that the rate of destruction of immigration files in 1982-1983 reached such a high level as to give rise to suspicions. Mr. Sabourin has produced a chart (exhibit P-128) showing the results of the disposal of files in the Employment and Immigration Commission from 1966 to 1985. Given in cubic feet — one cubic foot equals one box — the average for the period is 1,842 boxes destroyed per year. But during the relevant period, the figures show surprising discrepancies:

1979-1980	2,466	cubic	feet
1980-1981	820	"	"
1981-1982	1,261	"	"
1982-1983	6,462	"	"
1983-1984	2,627	"	"

Never before or after 1982-1983 was the figure for that year ever approached. Given Mr. Sabourin's estimate on this chart that "between 50 to 60 per cent of the above totals would have been Immigration case files", the destruction would have involved between 3,200 and 3,900 boxes in 1982-1983. We already know that the 19 boxes retained as a sample by Public Archives contained 1,093 files, i.e., an average of 57 files per box. On this very approximate basis, between 180,000 and 220,000 immigration files were apparently destroyed in 1982-1983. The same rough average calculation gives 25,000 files in 1980-1981 and 40,000 files in 1981-1982.

Mathematically, the numerous documents which have been filed before the Commission — exhibits P-128 to P-140 — fail by far to account for the massive destruction of 1982-1983. But this may show as well that the bureaucratic process was crumbling under its own weight.

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[352] Evidence, vol. XXII, p. 2967; p. 2970.
[353] *Ibid.*, p. 3018.
[354] *Ibid.*, pp. 3059-3060.
[355] *Ibid.*, pp. 3082-3083.
[356] *Ibid.*, p. 3137.
[357] *Ibid.*, p. 2968.
[358] *Ibid.*, Keenleyside, p. 3135.

Turning to the witnesses and the possibility of a conspiracy, each of them, O'Leary, Sabourin, Cook, Bourgault, Ms. Bertrand, Lebeau and Pommainville, has been put the same question in substantially the same terms:[359]

> Did you ever give, or did you ever receive, or did you ever hear of instructions to destroy files other than in the ordinary course of business within the Department of Immigration, or to destroy files that in any way relate to the presence of (sic) Canada of a Nazi war criminal?

Each of the seven witnesses gave a negative answer without the slightest hesitation. The Commissioner has seen and heard those witnesses, and he knows of no reason why he should disbelieve one or the other of them and hold them to have been parties to such a grand-scale conspiracy.

Rather, the evidence opens the door to a three-fold explanation of this one-time sharp increase in the yearly statistics of immigration files destruction. This explanation relies on three interrelated factors which contributed to a build-up of files slated for destruction:

1) The 1976 *Immigration Act* was assented to in 1977 and proclaimed in 1978. According to Mr. O'Leary, most resources were concentrated on that exercise from 1976 to 1978.[360] Furthermore, according to Mr. Sabourin,[361] under the new Act "further files became qualified for destruction".

2) The disbandment of the Retention and Disposal Unit (R. & D.) within the department. This unit, composed of around four people, was entrusted with the task of reviewing the files and applying to them the retention and destruction schedules. This was a continuous process. But the unit was disbanded in 1977: it is absent from the 1978 organization chart of the Record Services (exhibit P-134). It was reinstituted under Mr. Mallen, unofficially in late 1981, officially on 28 September 1982 (see the chart produced as exhibit P-135). This process has been confirmed by Mr. O'Leary,[362] Mr. Sabourin[363] and, of course, Mr. Mallen.[364] Needless to say, the disbandment of the unit was followed by an accumulation of files "within Immigration certainly", according to Mr. Sabourin.[365]

3) After the disbandment of the R. & D. Unit, the task of retention and disposal had been entrusted to the Code Classifiers; but, in the words of Mr. Sabourin, "because of the volume of work in their coding classifying responsibility, they had no time in effect to do R and D".[366] Bourgault added: "However, it proved then later on that this was just impossible; they

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[359] Evidence, vol. XXII, p. 2906.
[360] *Ibid.*, p. 2901.
[361] *Ibid.*, p. 2931.
[362] *Ibid.*, p. 2902.
[363] *Ibid.*, pp. 2927 and 2932.
[364] *Ibid.*, pp. 3022-3027.
[365] *Ibid.*, p. 2929.
[366] *Ibid.*, p. 2930.

> could not keep up with their daily work and review files at the same time. There was too much work involved."[367] What was bound to happen did happen: a massive backlog was created.

Those explanations are plausible and are borne out by the facts. Not surprisingly, when the R. & D. Unit was reorganized, it faced a considerable task; but the staff was complete, they were getting more and more familiar with their work[368] and its members put in great efforts:[369] the results are reflected in the statistics.

As this inquiry was forging ahead into the labyrinth of Immigration and Archives administration, the more clearly it appeared that the 1982 destruction episode had been wrongly built up into an incident of dramatic proportions.

First, it had been described as "a culpable act". But the former Solicitor General, the Honourable Bob Kaplan, has answered as follows before this Commission:[370]

> What I will suggest to you, sir, merely because of the cross-examination that has taken place this morning, that there is not a scintilla of evidence that there was any conspiracy relating to the destruction of these records. You know of none?
>
> A. I agree, I know of none.
>
> Q. And indeed there is not, to your knowledge, any evidence that it was any culpable act which led to the destruction of these records. You have no such evidence?
>
> A. No, I have no such evidence.

Then, the incident was described as "a monumental blunder". This assumes that the information contained in those files was "crucial" to the potential prosecutions, a fact which, as shown above, is far from established. Even if it were, it would only point to a case where the right hand does not know what the left hand is doing. Here is a group of employees performing their task under schedules approved by the proper authorities. They have never been advised that other authorities may wish to retain the files that they are instructed to destroy. Nobody, from the deputy ministers down, has ever given them any specific instructions to derogate from their disposal duties: this has been emphatically stated by several witnesses:

Bourgault:[371]

> Q. Had you received any instruction to retain files on the basis that they might be useful for establishing fraud on entry of Nazi war criminals in Canada?
>
> A. No.

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[367] *Ibid.*, p. 2996.

[368] *Ibid.*, Bourgault, p.3013.

[369] *Ibid.*, Sabourin, p.2932.

[370] Evidence, vol. XXI, p. 2823.

[371] Evidence, vol. XXII, p. 3015.

Mallen:[372]

> Q. If there had been any instructions not to destroy documents because of considerations relating to Nazi war criminals in Canada, would you have been aware of such instructions?
>
> A. Most definitely.
>
> Q. So you can say most definitely that there were no such instructions?
>
> A. There were no such instructions ever crossed my desk.

Bertrand:[373]

> Q. Did you receive any instructions or queries about the files that you were reviewing for retention, such as whether or not they would be useful for investigation about Nazi war criminals in Canada?
>
> A. No.
>
> Q. Were you aware of anyone else in your Unit that received such instructions or query?
>
> A. No.
>
> Q. And if such instructions had been received by someone else in your Unit would you have been aware of it?
>
> A. Yes.

Lebeau:[374]

> Would it be fair to say you received no instructions whatsoever about retaining records on the basis that they might be useful in the search for Nazi War Criminals?
>
> A. I never heard of it. No, I never got any instruction or anything.

Under such circumstances, if the destruction was a blunder, whose blunder was it?

Finally, more prosaically, the incident may well have arisen out of "the application of some routine policy": the expression comes from the mouth of no other than former Solicitor General Kaplan himself:[375]

> I know in government things can just happen and you tend, looking at it from the outside, to be suspicious and assume that there is — as my Deputy said in his letter, that there is a culpable act or simply a monumental blunder, but I have to say without knowing that it could also be the application of some routine policy.

Sabourin has stressed that routine aspect of the operations:[376]

> I can not testify back to 1945, but I have been with the Department since 1958 and I can certify that from 1958 right on through to today there has been almost a continuous file disposal programme in the department.

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[372] *Ibid.*, p. 3044.

[373] *Ibid.*, pp. 3073-3074.

[374] *Ibid.*, p. 3091.

[375] Evidence, vol. XX, p. 2612.

[376] Evidence, vol. XXII, p. 2927.

Cook sees the instant destruction as routine:[377]

> Having learned of Mr. Kaplan's full gamut of alternatives, which one do you say applies in the circumstances?
>
> A. The third one.
>
> Q. The application of some routine policy?
>
> A. Yes.

There may be no better way of putting the whole matter in its proper perspective than by using the capsule formula of Mr. Mallen:[378]

> . . . part of our job is to destroy it at an appropriate authorized time. So we do it.
>
> (. . .)
>
> . . . you would not even think of stopping because it is part of our job.

On the basis of this evidence, the Commission accordingly *FINDS* that:

42- The destruction of a substantial number of immigration files in 1982-1983 should not be considered as a culpable act or as a blunder, but has occurred in the normal course of the application of a routine policy duly authorized within the federal administration. In any event, if a blunder there was, it arose out of the failure of the higher authorities properly to instruct of an appropriate exception the employees entrusted with the duty of carrying out the retention and disposal policy in their department.

On 3 May 1985, Mr. David Matas gave the following notice of motion:[379]

> Take notice that a motion will be made on today's date, on behalf of the League before the Commission for an order of preservation of Department of Immigration forms OSS 8, application for permanent residence, and OMM-OSS 8-A, occupation profile, and in support of the motion will be read the affidavit of Alan Katchiuk.

After argument it was agreed that a decision on the motion would be suspended while Counsel for the Crown sought instructions. On 15 May Ms. Judith McCann made the following statement:[380]

> In response to the motion by Mr. Matas, the Government of Canada undertakes to, that applications for admission to Canada, the IM-8 forms presently being held in posts overseas; that is, under the retention schedules, and applications which come to those posts during the currency of this Commission, will not be destroyed where it is established that the date of birth of the applicant is 1927 or earlier which would make the individual 18 years of age at the end of the war, and where the country of birth of the applicant is a European country and which would include countries now absorbed by the U.S.S.R., and

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[377] *Ibid.*, p. 3052.

[378] *Ibid.*, p. 3048.

[379] Evidence, vol. VI, pp. 835-836.

[380] Evidence, vol. XI, pp. 1362-1363.

> that the retained applications would relate only to persons granted entry to Canada, i.e. those granted visas.
>
> And instructions will be sent to the posts abroad asking them to review the files which they have on hand and to note and send, and note new files that fall within those parameters. I hope that will satisfy the concerns of the Commission and Mr. Matas.
>
> Mr. MATAS: Yes, they certainly satisfy my concerns.
>
> THE COMMISSIONER: All right. So let us say that that is an agreement which is now on the record.

This undertaking still stands on the record.

iii) *Is there a presumption of fact against the applicant*?

The difficulty of producing adequate documentary evidence in the quest for revocation of citizenship of alleged war criminals has prompted a search for other avenues leading to the required proof. Thus the argument has been developed that there exists a presumption of fact, even absent any supporting document, that the applicant — if indeed he was a member of a prohibited class — must have lied upon entry.

The argument was put forward by Mr. Amerasinghe in his memorandum of 27 May 1983:[381]

> However, if we were to prove that the Immigration application forms were in existence, and if we can call evidence, as we can, of former Immigration officers who implemented Immigration policies in Germany shortly after the war, that any person declaring membership in the Nazi Party or employment in the various organizations would have been automatically rejected it would be possible to establish on a balance of probabilities that the individual concerned lied on his Immigration Application Form in order to obtain admission to Canada.
>
> (. . .)
>
> However, as a broad general principle the worst case that we could have is a case where there was no Immigration Application Form signed by the person but proof of landing in Canada only. In such a case it is my view that it should still be possible to establish on a balance of probabilities that the person gained admission to Canada by suppressing material facts, and/or by fraud and/or by false representations, and that he was not lawfully admitted to Canada and that therefore he did not fulfill the requirements necessary to obtain Canadian citizenship.

In a further memorandum of 30 September 1983, Mr. Amerasinghe added:[382]

> It is my view that if the standard of proof is on a balance of probabilities then it may well be possible for the Crown to discharge its onus without having to actually produce the application forms signed by the immigrant concerned but rather rely on a specimen form together with the testimony of an immigration officer stationed at the particular place where the immigrant was processed at the particular time. If on the other hand the

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[381] Exhibit P-101, p. 18.

[382] Classified document, quoted with the express agreement of counsel for the Government of Canada.

> standard of proof is held to be that which prevails in the United States of America namely, "clear, unequivocal, and convincing evidence that does not leave the issue in doubt" I doubt that the Crown would be able to establish its case.

The Commission has concluded earlier that the standard of proof which should be applied in Canada is that of "a probability of a high degree".[383]

Now, whether the available evidence could permit the Crown successfully to argue that it had discharged its burden thanks to a presumption of fact establishing "false representation or fraud or concealment of material circumstances" is a debatable question. Indeed, in a lengthy opinion which he gave to Solicitor General Kaplan on 8 December 1983,[384] the Honourable Mark MacGuigan, then Attorney General of Canada, expressed serious doubts on the soundness of this position. After summarizing Mr. Amerasinghe's views, Mr. MacGuigan commented:[385]

> All of these arguments would be based by the Crown on the assumption that every R.C.M.P. officer did what he was supposed to do in every single case, without exception. Courts may be reluctant to infer fraud on the basis of this type of evidence, particularly in cases which reach back almost forty years.

Then, addressing the possibility of conflicting evidence on the part of the suspect, Mr. MacGuigan added (*ibid.*):

> The Court would then be confronted with a conflict between the Crown's evidence of *general* practice and the suspect's direct evidence of what was said or not said in a *specific* case. The latter type of evidence, if given with any degree of credibility, is ordinarily more persuasive to a judge, particularly where the judge is being asked to make a finding of fraud.

(emphasis in the original)

The theory expounded by Mr. Amerasinghe has now been taken up by Mr. Matas in his brief:[386] public officials (e.g., immigration officials and citizenship judges) should be presumed to "have properly discharged their duties" (p. 55); hence, if a war criminal was granted landing or citizenship, he must have lied or concealed material facts. A similar line of reasoning has been adopted by the Canadian Jewish Congress[387] and by Professor Sharon A. Williams.[388] Finally, Mr. Sol Littman stated during the course of his submission to the Commission:[389]

> Therefore I think that we can still use what we now call the American approach and make the legal assumption that if he was admitted in spite of his past then he must have lied and we don't really need to present the form itself in order to have proof that he did lie.

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[383] See recommendation no. 37.

[384] Exhibit P-103.

[385] *Ibid.*, p. 4.

[386] Exhibit P-69, pp. 55-64.

[387] Exhibit P-84, p. 39.

[388] See her brief to the Commission, "Deportation and Denaturalization of War Criminals in Canada".

[389] Evidence, vol. IV, pp. 444-445.

Now, we already know that documentary evidence is fragmentary and, more often than not, irrevocably lost. It is therefore interesting to turn to the oral evidence. On the question which we are considering, five witnesses have been heard; they were connected, at one time or another, with Immigration, External Affairs or RCMP:

Immigration:

George O'Leary, 47, Chief, Program Guidelines for Immigration;
Joseph R. Robillard, 70, retired;

External Affairs:

John McCordick, retired Ambassador;

RCMP:

Albert L. Greening, 63, retired Sergeant;
William H. Kelly, 74, retired Deputy Commissioner.

Outside of Mr. O'Leary, the other four witnesses did actually work in the field in the post-war years. The interest of Mr. O'Leary's evidence stems mainly from his explanations concerning the introduction of the revised Form IMM-OS.8 in April 1953 when, for the first time, a detailed questionnaire appeared concerning the military service of the applicant from 1938 to 1954.[390]

On the immigration side, this was confirmed by Mr. Robillard. Upon being demobilized, Mr. Robillard began a career with immigration which took him through various positions of responsibility during several years in England, Italy, Austria, Germany, etc. Referring to the previous revision of Form IMM-OS.8,[391] Mr. Robillard confirmed that it did not contain any question on the military record of the applicant.[392] But — and that is where the interest of this testimony for our present purposes begins to surface — questions were put verbally, prior to 1953, concerning the applicant's military service during the war:[393]

> Q. Right. Prior to 1953, when we were using the previous form which did not request military service, can you tell the Commission whether or not to your knowledge, the prospective immigrant was asked about his military service?
>
> A. Yes, indeed, both by the RCMP and the visa officer in order, again, to give us a clue of why a person was in a refugee camp.
>
> (. . .)
>
> Q. But the question to your knowledge was asked—

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[390] Exhibit P-35, Item Q, Tab 4; evidence, vol. V, pp. 651-652.

[391] *Ibid.*, Tab 3.

[392] Evidence, vol. XI, p. 1275.

[393] *Ibid.*, p. 1283.

> A. Oh, yes, oh, yes.
>
> Q. Prior to '51 — '53, excuse me?
>
> A. Yes.

Mr. Robillard even added (*ibid.*):

> So this is why — this is what lead (sic) us eventually to make it a formal declaration, please say so on your application form.

Ambassador John McCordick spent nine months with the Canadian Military Mission in Berlin, from June 1946 to March 1947. He was heavily involved in the screening of prospective immigrants; according to him, this process meant more than mere paperwork: "We always interviewed them".[394] Then he adds:[395]

> Q. In your questioning that you carried out of prospective immigrants, do you recall whether such questions dealt with the applicant's background and activities during the war years?
>
> A. Yes, we always asked that type of question.

And still further:[396]

> Q. You talked about people in the normal course being asked about their whole life history, effect. Would it be fair to say that these questions were really as a result of the standard instructions that you had, and that you would have followed these instructions in asking the questions that you did?
>
> A. Yes, I think that would be fair, I think it was assumed — and I hope rightly — that common sense would prevail and that we would ask all the normal questions, which were quite comprehensive. We knew that we were dealing with people from, to us, unfamiliar places and backgrounds that we could not verify, so we pressed hard for a full story. As I mentioned earlier, we were on the lookout for gaps and would press harder still if there were any and record all that they gave us.

One must keep in mind the psychological assessment which Mr. McCordick makes of the prospective immigrants he was questioning and the conclusion which he draws:[397]

> Q. And what would you do if somebody volunteered that they had been a member of the Gestapo?
>
> A. These are hypothetical questions, remember, that you are putting and I shall answer them in a hypothetical way. I cannot conceive of a person whose mind had not been damaged a bit volunteering such information, but if he did, I would try to keep track of him.
>
> (. . .)
>
> Q. One other question of this type: What would you have done if somebody had divulged that they had been a member of the Nazi Auxilliary Police in one of the countries that the Nazis occupied?

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[394] Evidence, vol. XX, p. 2486.

[395] *Ibid.*, p. 2487.

[396] *Ibid.*, pp. 2499-2500.

[397] *Ibid.*, pp. 2502-2505.

> A. Well, I just repeat, that unless the person had already lost a lot of his normal instinct of self preservation, I cannot imagine of anyone doing that but my answer then is similar to your other questions. I would have thought immediately this is not a person for Canada or for any further consideration by this military mission, but he is definitely a candidate for close attention by the British security authorities, zonal authorities, because they exchanged all this.
>
> Q. So it would be fair to say that anybody in any of these categories, the Gestapo or the SS or the Nazi Party or the Auxilliary Police, if you knew about their past history you would not have processed them to come to Canada?
>
> A. Certainly not, and we would not have let them just walk out into the open air and forget about. We would have tried to do something more about it than that.
>
> Q. And would it also be fair to say, that if any such people did come to Canada by passing through your mission during that time, in order to do so they must have lied to you?
>
> A. Given the number of filters that there were, no doubt imperfect, if a person succeeded in getting around them and getting into this country, and a person who had a past of the kind of you have in mind of party or party military activities, then I would be sure that part of his success was due to lying. There must have been other factors too but I cannot imagine going, without a pack of lies as part of it, as part of the operation.

On the RCMP side, Mr. Kelly was posted in London, England in 1961 where, in his own words, he "... became the officer in charge of visa controls, as we called it, and the liaison officer between the RCMP and all police organizations, intelligence organizations and security organizations, in what we now know as Western Europe".[398] As such, he had nothing to do personally with the actual screening process.[399] His evidence cannot help us here.

There remains Sergeant Greening who, as an RCMP member, acted as visa control officer in Germany for nearly eight years, from the summer of 1954 to the spring of 1962. After having generally spoken about the procedure, forms, investigation and interviews, Mr. Greening gave a vivid description of an interrogatory:[400]

> ... So, what did you expect to find out from this gentleman, first in the course of your interview with him, and then I will go to other stages?
>
> A. Dealing first of all with his papers, if he had been processed by the camp in West Germany in Nuremberg, if he had arrived there with no papers, they would have processed him and issued him with documents, identifying him to us. These would be alien documents; Fremdenpass, as is referred to in Germany.
>
> We would accept that, but if that person was of an age, as you were saying, which would place him in a period of Rumania during the war, I would try to establish, first of all, whether he had served in the Rumanian Army prior to the takeover by German authorities.
>
> Q. By the Nazi authorities?
>
> A. By the Nazis. If that was the case, I would then go on and try to establish whether he had in fact volunteered or served with Nazi authorities after the takeover of Rumania, and if he did, in what category, whether it was a voluntary category, whether had been

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[398] Evidence, vol. VII, pp. 892-893.

[399] *Ibid.*, p. 898.

[400] Evidence, vol. VIII, pp. 1013-1015.

coerced or, say, taken over either as a Rumanian Army unit or as an individual. If I felt that he had joined voluntarily, of course, collaboration would then come into it. I would have to try to establish whether the nature of his volunteering and the nature of his duties with the German Army was such that it would place him a category which would be objectionable to us. This would all be part and parcel of our procedure at that time.

Q. And given the fact that there are no papers except the alien papers, which have been issued by the West Germans, how did you elicit answers to these very pertinent questions which you say you were posing as a matter of course?

A. I would question the person directly. The direction of my questioning would be guided by the response that I would get from the individual, if he was forthcoming, quite honest, why then, of course, we could go on from there. If there was any hesitation on his part or any obvious attempt of refusing to give information, that would just probably urge me to be a little more intense in my questioning.

Q. And then, Mr. Greening, you would ask your sources, in particular, the Nuremberg Alien Centre, for verification?

A. Correct, or whatever information they may have received from them during their processing.

In cross-examination, Mr. Greening was given an opportunity of describing again the process:[401]

Q. When you were asking questions at interviews would you ask people about their involvement in the Nazi party?

A. Oh, yes.

Q. Would you ask them about their involvement in the SS?

A. Yes, if they came within a category that I felt would come within that area.

Q. Would you ask them if they worked in a concentration camp?

A. I would do; I would not hesitate to ask them that.

Q. And these questions would be asked — would they be asked as a matter of course?

A. Well, each case, again, was different. They would be asked as a matter of course if the individual was of a certain age, or who had served in the services. It would be a matter of course then, but, probably, in a different way. It would depend on the individual, on an individual's reactions, on his responses. We would have to gear our questions and form our questions and our questioning in different ways. For instance, somebody who is forthright and obviously or apparently honest would be much easier to question than somebody who was rather hesitant about any admissions or —

Q. Would you ask people about their membership in auxiliary police forces operating under the SS?

A. Well, what we would try to establish is what service he had carried out, regardless of where it was, or what organization it was. We would try to establish that. In other words, try to form a picture of just what he had done.

Then the witness declared (*ibid.*):

Q. But would you say that these sorts of questions that you say you asked about Nazi party membership and concentration camps and so on, to your knowledge, were these the sorts of questions all Visa Control Officers were asking or could you just speak for yourself on this?

A. In Germany, that is the type of questions that we would be asking, yes.

Q. Generally?

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[401] *Ibid.*, pp. 1048-1049.

A. Generally.

All of this led to a logical conclusion:[402]

> Q. Now, we are taking the situation where the files are destroyed of the people who passed, so we do not know what, in fact, was on the file, but would it be fair to conclude that if someone had passed, and the file was destroyed, that he must have said that he was not a member of a concentration camp?
>
> A. We would not have passed him if we had information which placed in the rejection criteria. We would not have passed him and therefore that file would not have been destroyed.
>
> Q. Well, I guess I am trying to find out not whether you had the information but whether it would be fair to conclude that if he had passed, and that information turned up subsequently, it would be fair to conclude that person must have lied in the interview with you.
>
> A. That would follow; I would say, yes.

Such is the positive side of the image which emerges from the evidence given essentially by Robillard (Immigration), McCordick (External Affairs) and Greening (RCMP): immediately after the war, Canadian immigration officers and security officers made it a duty to question prospective immigrants on the details of their past and, particularly, their military and political activities. In order to win access to Canada, a war criminal must have lied. The demonstration is both simple and attractive. But before arriving at a firm conclusion, one must take into consideration the negative elements found in the evidence. There are several. For the sake of clarity, the Commission will number them:

1) Curiously enough, the first element of doubt came in the form of a statement contained in what should have been a question by Mr. Matas. The relevant passage begins with the last part of an answer given by Mr. O'Leary:[403]

> *Answer*: Again, these were all questions related to labour market requirements in Canada. Any aspect of their war service or involvement in concentration camps or anything like that would have come out through the Stage B examination and their sources of information.
>
> *Question*: In other words, it would not have come out by asking people direct questions. It would have come out by investigation through contacts.

2) Mr. Kelly expressed some reservations about the quality of the work of the immigration officers:[404]

> . . . There is a question that I cannot answer. It is an Immigration problem.
>
> I am not sure whether they interviewed every person or whether they just vetted the application.
>
> (. . .)

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[402] *Ibid.*, pp. 1051-1052.

[403] Evidence, vol. VI, pp. 770-771.

[404] Evidence, vol. VII, pp. 904 and 907.

> Q. Generally, because I do not think it would be useful to get into particulars, but generally, would you say that the bent of the R.C.M.P. in this process was on all fours with the bent of the Immigration Department?
>
> A. If I am getting your question correctly, I would say that Immigration was more concerned with numbers than they were with security.
>
> Having said that, perhaps I should qualify it. Perhaps they were less concerned with security because they knew the R.C.M.P. was dealing with it, but they certainly quarrelled with us often enough because we were not producing results quickly enough, and, of course, the results that we were producing depended upon the support and the co-operation of our sources.[405]

3) Mr. Greening had spoken of his experience in Germany between 1954 and 1962: several years had already elapsed since the end of the war. Whether his experience can be transposed to the immediate post-war years becomes questionable after one has read Mr. Greening's rather acid comments:[406]

> I think I can say that our procedures that we were carrying out in 1954 were quite a bit more sophisticated and polished than they had been previously in 1946, 1947 and 1948, because at that time they had very few resources, manpower-wise, and also access to their sources. A lot of the information would not have been gathered and recorded. Therefore, as the years progressed, our resources increased; our methods were polished. As the result of exchange of correspondence, our policy was rounded off so that we could apply more consistent procedures in doing the security screening.
>
> This is on a progressive nature and, as I say, by 1954 it was quite a bit better than it would have been in 1946, 1947, 1948, and 1949.

4) Mr. McCordick became at a certain moment less positive about the extent of the questioning of applicants:[407]

> Q. Would you ask people if they had been members of the SS?
>
> A. Whether in every case we would ask that specifically, just saying "SS", I do not know. We would certainly inquire about their party affiliations and party activities and military activities and military associations. Whether we would run down the whole list of organizations, including the SS, I just do not know. I suppose it would depend on the individual case.

5) Finally, a question mark rises on the horizon, based on the time which those officials and their colleagues could devote to every individual immigrant. Mr. McCordick states that the Berlin office "was a very busy, in fact, pretty heavily loaded office".[408] Mr. Greening says, about the Bremen office:[409]

> I had one man posted in Bremen. The months that I was there, it varied, but it would run probably from 10 to 35 cases a day over a five-day week. I kept statistics of course but I don't recall what they were, but I do remember cases where I would probably be interviewing 20 and 25 people a day and they would be long days.

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[405] See also the considerations of Mrs. Alti Rodal in her study prepared for the Commission, pp. 228-229 and 271-277.

[406] Evidence, vol. VIII, p. 1053.

[407] Evidence, vol. XX, p. 2501.

[408] *Ibid.*, p. 2490.

[409] Evidence, vol. VIII, p. 1078.

Greening adds that there were "more cases in Berlin" (*ibid.*). Now, if one takes an average of 25 interviews a day, the Canadian official could not physically devote to each applicant much more than 15 to 20 minutes. During that time, he must examine the file, review the answers put down by the applicant on the relevant form and, no doubt, ask a few routine questions. Mr. Greening happened to speak German, but not all officials did; it then became necessary to use the services of an interpreter, which of course slowed down the process. What time was there left for the screening officer to delve into the applicant's past? Precious little, if any.

These various negative elements have an importance which should not be minimized, when it comes to establishing the practice amongst the screening officials 40 years ago. Presented with this somewhat conflicting evidence, would a court conclude that the Crown has established with a high degree of probability the existence of a presumption of fact against the suspected war criminal?

Before attempting to answer the question, let us consider a further complication which Mr. MacGuigan had actually foreseen in his opinion of 8 December 1983 (exhibit P-103). Mr. MacGuigan pointed out (p. 4):

> Moreover, such evidence could be rebutted by a suspect offering "credible" testimony (. . .) that he was not asked such questions, or that if any such questions were asked they were truthfully answered.

This is exactly what happened on 1 April 1986 when the Commission was examining the suspect who bears number 287 on the Commission's Master List. The examination was proceeding with the aid of an interpreter; the relevant passage reads as follows:

> Q. Does he have any recollection of meeting with one or more officers of the Royal Canadian Mounted Police during the course of being processed for immigration to Canada?
>
> A. There must have been somebody because when I went to consulate they looked at the papers.
>
> Q. Does he have any specific recollection of being asked a series of questions by officers — by an officer of the Royal Canadian Mounted Police at that time?
>
> A. The one I think I remember, I was asked whether I was a Communist or I was a Nazi.
>
> Q. By an officer of the Royal Canadian Mounted Police?
>
> A. I don't know.
>
> Q. By an official of the Canadian government?
>
> A. Yes, somebody from Canadian government.
>
> Q. Did Mr. —— disclose to that official of the Canadian government during that process that he had served in the Lithuanian army from 1941 to 1943?
>
> A. *Nobody asked me that question.*
>
> Q. And he did not volunteer the information?

> A. *I wasn't asked that question*; and that questions that I was asked, I answer to the translator.

(emphasis added)

But such was not an isolated incident. A similar instance occurred again on 28 April 1986 when the Commission was examining its suspect number 187. To wit:

> Q. When you applied in November, 1951 for immigration to Canada, did you divulge to the Canadian authorities your service in the Einstazgruppen —
>
> A. No.
>
> Q. — Einsatzkommando 10A during the war?
>
> A. No.
>
> Q. Were you asked what you had done during the war?
>
> A. *They didn't ask me at all.* They only asked me about "Were you a member of the party?" —
>
> Q. Yes.
>
> A. — and some other organizations.
>
> Q. Did you tell the Canadian authorities that you had been a member of the Nazi Party until 1945?
>
> A. Sure. Sure. I have to.
>
> Q. Yes. But you did not volunteer the information about your service in the Einsatzkommando?
>
> A. No. *They didn't ask me, you know.* They only put down a thing on paper, one, two, three, four. I was a party member, and I put this down.

(emphasis added)

Here are two examples of a direct contradiction by the suspect of the practice alleged by the government officials.

The Commission should not, and will not, attempt to substitute itself for the courts and decide in advance and in general the fate of the presumption which is advocated, especially since the Commission cannot foresee what importance a court of law would give to the duty of candour, the existence of which the Commission has acknowledged earlier. For instance, in case number 287 quoted above, a court may or may not find that that particular suspect had the duty to volunteer the information concerning his service in the army during World War II; or in case number 187, his service in the Einsatzkommando.

Suffice it, therefore, for the Commission to *FIND* that:

43- The existence of a presumption of fact that a former immigrant, if a war criminal, must have lied for purposes either of immigration or of citizenship, cannot be taken generally for granted, in light of the conflicting evidence before the Commission. It must be left to the

courts to decide whether, in any given case, such a presumption has been established with a high degree of probability.

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4. *Incidental questions*

This discussion about revocation of citizenship has rendered useful a consideration of some questions incidental to the main issue. The Commission proposes to discuss them briefly.

i) Persecution

Revocation of citizenship entails, as we have seen, proof of "false representation or fraud or concealment of material circumstances". This in turn opens the door to subjective considerations as well as to grave difficulties of proof, were it only due to the lapse of time. It appears desirable to find an objective criterion which, while retaining the basic fairness exacted by our system of law, might lighten to some extent the burden of the prosecution.

With this goal in mind, inspiration can wisely be gained from a reading of the so-called "Holtzman amendment" adopted by the U.S. Congress in October 1978.[410] In the words of Congress itself, the Act was intended "To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion under the direction of the Nazi government of Germany, . . .".

We will consider in the next section of this chapter the question of deportation, at which the American amendment was expressly directed; but, in the opinion of the Commission, this amendment would also be a valuable improvement to the Canadian legislation on citizenship.

The Commission is, however, prepared to go further. Persecution is indeed but one facet of crimes against humanity, as appears from the definition which the Commission has recommended earlier for inclusion into the *Criminal Code* (see recommendation number 28). A reference to crimes against humanity would therefore include persecution, whereas the U.S. Congress was obliged, in the state of its own legislation, to pass an Act dealing specifically with persecution.

But a further difficulty arises, which has been outlined by Mr. Sopinka in his brief (exhibit P-160). Either an amendment would be sought dealing only with Nazi war criminals, on the model of the Holtzman Bill; or it would deal with war criminals in general, on the model of the Finestone motion.[411] In the first event, according to Mr. Sopinka, "A decision to prosecute only Nazi war criminals would be open to the charge of discrimination based, *inter alia*, upon race or national origin."[412] In the second event, "Such an amendment falls outside the terms of reference of the Commission." (*Ibid.*). In other words, you're damned if you do and you're damned if you don't.

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[410] Public Law 95-549, 30 October 1978.

[411] After the name of the lady member of the Canadian House of Commons who moved the amendments earlier referred to in this report and generally declared out of order by the Chairman of the Committee and the Speaker of the House. The Commission's recommendation number 28 is patterned after that set of amendments.

The Commission has decided earlier to make its recommendation general. Parliament will decide, in its wisdom, if it is appropriate to amend the law at all and, in the affirmative, to deal only with Nazi war crimes or to legislate on war crimes generally. One way or another, such legislation should foresee, for the past, revocation of citizenship on account of the commission of war crimes, irrespective of false representation, fraud or concealment of material circumstances and, for the future, a prohibition of the granting of citizenship to war criminals.

To assure the effectiveness of such a statutory prohibition, it should be coupled with improved administrative practices. The Commission shares the views expressed on this topic by the Interdepartmental Committee:[413]

> 17. As an initial step, current administrative practices might be modified to ensure that any applicant for future admission to Canada is required to answer questions as to his activities during the Second World War or in any other area of conflict. The object would be to avoid an influx of persons under investigations in other countries who might now be able to enter Canada without any inquiry as to possible involvement in war crimes. Furthermore, the requirement of written responses to such questions would provide a clear evidentiary basis on which to move against an individual who might subsequently be admitted to Canada on the strength of misrepresentations in this regard.
> [413] Exhibit P-77, p. 29.

The Commission accordingly *RECOMMENDS* that:

44- In order to prevent the granting of citizenship to war criminals or, as the case may be, to ease the revocation of citizenship of war criminals, the *Citizenship Act* (23-24-25 El. II, c. 108) should be amended

a) by adding to ss. 5(1) the following paragraph (f):

"(f) has not committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*.";

b) by adding after the word "person", in the 7th line of ss. 5(4) the following:

"except a person barred under paragraph 5.(1)(f)";

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[412] Exhibit P-160, p. 50.

[413] Exhibit P-77, p. 29.

c) by adding after the word "circumstances", in the 8th line of ss. 9(1), the following:

> **"or in spite of having committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*,";**

d) by striking, at the end of paragraph 10.(1)(b), the word "and";

e) by adding, in ss. 10(1), the following paragraph (c):

> **"(c) has not committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*; and";**

f) by renumbering "(d)" paragraph 10.(1)(c);

g) by adding, at the end of paragraph 17.(1)(b), the following:

> **"or in spite of having committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*.".**

45- The immigration screening process and interview procedure should be tightened, so that:

a) a minimum and standard set of questions to be put to the applicant be established by regulation;

b) such questions bear explicitly on the applicant's past military, para-military, political and civilian activities;

c) all further questions to the applicant and all answers by the applicant be reduced to writing and signed by the applicant;

d) the applicant be required to sign a statement providing, in substance, that he has supplied all information which is material to his application for admission to Canada and that an eventual decision to admit him will be predicated upon the truth and completeness of his statements in his application.

46- Where the application is granted, immigration application forms should be kept until either it is established or it can be safely assumed that the applicant is no longer alive.

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ii) Statelessness

The Interdepartmental Committee has expressed the fear[414] that "[r]evocation of citizenship might, in some circumstances, mean that the person in question would thereby be rendered stateless. That factor implies some degree of inconsistency with certain international obligations and general principles of international behaviour to which Canada has subscribed."

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[414] Exhibit P-77, p. 29, no. 45.

This fear appears to be groundless in light of both domestic law and international law.

It is true that, under the 1946 *Canadian Citizenship Act*, the Canadian government had adopted a regulation[415] requiring the applicant for citizenship "to make a declaration, in prescribed form, of renunciation of his previous nationality or citizenship."

But in 1973 the Federal Court of Canada found that regulation *ultra vires*: **Ulin v. The Queen:** [416]

> If the legislator intended to require more than an oath of allegiance in order to obtain Canadian citizenship, it would have been a simple matter to so enact such other requirements as are considered necessarily and substantially required for the protection of the quality of Canadian citizenship. Parliament, however, has not done so and the Governor in Council is not empowered, under the guise of carrying into effect the purposes and provisions of the Act to enact such a substantive requirement as a declaration of renunciation merely by regulation.

Pursuant to the judgment, Canada repealed the impugned regulation in January 1974.[417]

Upon his citizenship being revoked, a war criminal who would have executed such a renunciation prior to becoming a Canadian citizen might well argue that such a renunciation had no sustainable basis in law and should be set aside. Of course, whether he had in any event lost his previous citizenship and, if so, whether he could recover it as a result of the above-mentioned judicial pronouncement, are questions which ought to be resolved under the relevant provisions of the law of the country of prior citizenship. It is, therefore, impossible to establish here general principles: each case must be resolved according to its own circumstances.

In any event, even if statelessness were to result, in a given case, from the revocation of citizenship of a war criminal, three international instruments would assure Canada of a secure position in international law.

The *Universal Declaration of Human Rights* provides, in its art. 15:

> 1. Everyone has the right to a nationality.
> 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

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[415] "Canadian Citizenship Regulations", *Canada Gazette*, 1968, Part II, vol. 102, p. 1180, art. 19.(1)(b).

[416] (1973) F.C. 319, at p. 325.

[417] *Canada Gazette*, Part II, 1974, vol. 108, p. 278.

The critical word is of course "arbitrarily". There would be nothing arbitrary in the revocation of citizenship of a war criminal: it could only be decreed after a full judicial inquiry; and far from deserving qualification of arbitrary, it would fall in line with two other international instruments.

The *Convention relating to the Status of Stateless Persons*[418] is referred to in the discussion of the Interdepartmental Committee[419] as being "relevant". The Committee does not, however, say how or where. At most, art. 32 might have a remote connection with our subject matter:

> The Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

This provision bears no relation, on the face of it, to revocation of citizenship for cause. But more to the point is art. 1.2 of the Convention which states expressly:

> 1.2 This Convention shall not apply:
>
> (iii) To persons with respect to whom there are serious reasons for considering that:
>
> (a) They have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes.

The Commission is surprised that the Interdepartmental Committee referred to this Convention as relevant, without at all mentioning the existence of this exclusionary provision concerning war criminals.

Yet it is this very provision which renders the Convention relevant to the denaturalization process, since it contributes to divesting that process of any arbitrary character insofar as war criminals are concerned.

The *Convention on the Reduction of Statelessness*[420] provides in its art. 8(1):

> A Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.

However, the very next paragraph contains the following exception:

> 2. Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:
>
> b) Where the nationality has been obtained by misrepresentation or fraud.

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[418] *Convention relating to the Status of Stateless Persons*, Adopted 28 September 1954. Entered into force 6 June 1960. Canada is not a party.

[419] Exhibit P-77, p. 29, no. 45.

[420] *Convention on the Reduction of Statelessness*. Done at New York, 30 August 1961. In force 13 December 1975. In force for Canada 15 October 1978.

The Canadian statute precisely provides for revocation of citizenship on grounds, amongst others, of false representation or fraud. For the second time, the Commission cannot avoid raising a question mark as to why the Interdepartmental Committee saw fit to quote paragraph 1 of art. 2 but failed entirely to refer to paragraph 2(b) of the same article.

The Commission accordingly *FINDS* that:

47- There exist no legal or contractual obstacles, either domestically or internationally, for Canada to strip a war criminal of his acquired Canadian citizenship, even at the risk of rendering him stateless.

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iii) Deportation

In some cases, suspected war criminals have never applied for Canadian citizenship. In the majority of cases, they have, sooner or later, become Canadian citizens. In appropriate circumstances, the latter could be divested of their citizenship. In the search for an adequate punishment of war criminals, the next step in all cases is deportation.

Now, because of the changes in legislation over the years and of the variety of dates at which the suspects entered Canada, a detailed consideration of this matter opens the door to infinite complications: the Commission does not intend to lose itself in this labyrinth and will keep to essentials.

1. *Grounds for deportation*

Through the years, the formulation of those grounds has slightly varied, but in substance they have remained the same: misrepresentation, untrue answers, improper means, etc. The provision most closely related to war criminals in the *Immigration Act, 1976* is s. 27(1)(e), under the heading "Removal after admission":

> (e) was granted landing by reason of possession of a false or improperly obtained passport, visa or other document pertaining to his admission or by reason of any fraudulent or improper means or misrepresentation of any material fact, whether exercised or made by himself or by any other person.

In the present state of the law, and barring consolidation of procedures in agreement with recommendations 29, 30 and 31, deportation means proving a second time, but before a different authority, the facts by and large which had led to revocation of citizenship (unless, of course, the suspect never became a citizen). This ground has already been covered and we will not labour the point any further.

The whole process, however, would be made more secure if a specific provision were to deal with admission and removal of war criminals, both in the section on "Inadmissible classes" and in the section on "Removal after admission" of the *Immigration Act, 1976*. This, however, raises in turn the problem of refugees.

The condition of refugee is governed by the *Convention relating to the Status of Refugees*.[421] Canada has incorporated into the *Immigration Act, 1976* both a reference to the Convention and its 1967 Protocol in s. 2.(2) and an express definition of the phrase "Convention refugee" in s. 2.(1):

> "Convention refugee" means any person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,
>
> (a) is outside the country of his nationality and is unable or, by reason of such fear, is unwilling to avail himself of the protection of that country, or
>
> (b) not having a country of nationality, is outside the country of his former habitual residence and is unable or, by reason of such fear, is unwilling to return to that country.

However, the Canadian Parliament has not seen fit to include into the Act the cessation and exclusion clauses which appear in art. 1 of the Convention. The exclusions contained in s. 4.(2)(b) and 55 of the Act are foreign to this topic. Now, art. 1(F) of the *Refugee Convention* provides:

> F. the provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
>
> (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.

It would be highly appropriate that this specific exclusion be reflected in our legislation: no demonstration of this proposition appears to be needed.

On 17 April 1985, Rabbi W. Gunther Plaut, O.C., submitted to the Minister of Employment and Immigration, the Honourable Flora MacDonald, the final report of his study on "Refugee determination in Canada".[422] He came upon the same situation (p. 58): "Our legislation has not adopted any of the exclusion and cessation clauses contained in the Convention." Rabbi Plaut pursued (p. 60): "It has been suggested to me that to list the exclusion and cessation clauses in our legislation would tend to limit our refugee commitment unnecessarily. But this consideration, it seems to me, is outweighed by the desirability of creating reliable and objectively applicable legal standards. It is therefore recommended that the clauses of the Convention, where necessary, form part of our law."

In agreement with this conclusion, Rabbi Plaut recommended (at p. 63) that art. 1(F) of the Convention "be made part of our law".

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[421] *Convention relating to the Status of Refugees*. Adopted 28 July 1951. In force 22 April 1954. In force for Canada September 1969.

[422] Canada Cat. no. MP 23-69/1985.

For all those reasons, the Commission *RECOMMENDS* that:

48- In order to reflect in Canadian legislation the exclusion of war criminals contained in the *Convention relating to the Status of Refugees*, the *Immigration Act, 1976* (25-26 El. II, c. 52) should be amended

a) by adding, in s. 2.(1), after the word "person" at the end of the first line of the definition of the words "Convention Refugee", the following:

"(except a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*)";

b) by adding, at the end of s. 4.(2)(b), the following:

"or a person coming within the exception to the definition of 'Convention Refugee' in s. 2.(1)";

c) by adding, at the end of s. 19.(1), the following paragraph (j):
"(j) persons who have committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*";

d) by replacing, in the fourth line of paragraph 27.(1)(a), "or (g)" by ",(g) or (j)";

e) by replacing, in the second and third lines of paragraph 55.(a), "or (g)" by ",(g) or (j)."

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2. *Obstacles to deportation*

Whatever the name under which it is known, deportation is strongly objected to, and several obstacles are said to lie in its path; they are founded mainly on the notions of domicile and lawful admission. Essentially, the question turns on the effect which should be given to s. 127 of the *Immigration Act, 1976*:

> 127. Where a person acquired Canadian domicile in accordance with the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act and did not lose Canadian domicile before the coming into force of this Act, a deportation order may not be made against that person on the basis of any activity carried on by him before the coming into force of this Act for which a deportation order could not have been made against him under the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act.

The notion of domicile has not changed materially over the years. The basic definition read as follows in the 1910 legislation:[423]

> 2.(d) "domicile" means the place in which a person has his present home, or in which he resides, or to which he returns as his place of present permanent abode, and not for a mere special or temporary purpose.

On 1 January 1947 the definition was amended to read as follows:[424]

> Domicile means the place in which a person has his home or in which he resides or to which he returns as his place of permanent abode and does not mean the place where he resides for a mere special or temporary purpose.

Together with the other provisions governing Canadian domicile, those were the dispositions under which the vast majority of suspected war criminals may have acquired a domicile in Canada after their post-World War II immigration.

Now, assuming irregularity — not to say, illegality — upon entry due to misrepresentation, or untrue answers, or improper means, could a Canadian domicile be acquired nevertheless? And, if so, is it now an insuperable obstacle to deportation? Again, those questions have raised a considerable debate which the Commission must now attempt to resolve.

i) *domicile and fraud on entry*

Under the 1910 Act, landing meant "lawful admission into Canada . . . otherwise than for . . . a temporary purpose . . .".[425]

Under c. 325 of 1952, landing meant "lawful admission . . . to Canada for permanent residence".[426]

Canadian domicile could be acquired by the immigrant residing in Canada during a period of three years, then five years after landing.[427]

Thus, the final result is predicated upon the value of each of the intervening steps: Canadian domicile depends on residence, which depends on landing, which depends on lawful admission. Let the legality of the original admission be successfully challenged: the whole edifice crumbles, and Canadian domicile cannot be claimed by the suspect.

This is the view expounded by Professor S.A. Williams:[428]

> On account of this provision [s. 4] in the 1952 Act, if the landing was void *ad initio* because it was acquired by improper means already discussed, then the right to

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[423] 9-10 Ed. VII, (1910), s. 2(d).

[424] An Act to amend the *Immigration Act*, 10 G. VI, c. 54, s. 3.

[425] Section 2(p).

[426] Section 2(n).

[427] (1910) *ibid.*, 1952, s. 4.(1).

[428] Williams, brief to the Commission, "Deportation and Denaturalization of War Criminals in Canada", p. 61.

> permanent residency would not have been validly acquired and domicile would not have been obtained. Thus, deportation could take place under the 1976 Immigration Act.

The courts have also upheld that view. In **Rex v. Jawala Singh,**[429] Sloan J., speaking for the Court of Appeal of British Columbia, said:

> Counsel for the respondent pressed us with his submission that when examined by the Board of Inquiry in 1937 the respondent was a Canadian citizen, having acquired this status since his re-entry into Canada in 1935. That submission, to my mind, cannot be supported. The entry of the respondent into Canada in 1935 was an unlawful entry and in consequence the respondent cannot be said to have "landed" in Canada within the meaning of the *Immigration Act* (see sec. 2[l]). Canadian domicile cannot be acquired, for the purposes of the *Immigration Act*, except by a person having his domicile for at least five years in Canada after having been "landed" therein, i.e., after having made a "lawful admission" into Canada. The present respondent fails to fulfil both conditions precedent to the acquisition of Canadian domicile (see sec. 2[e][i]).

A few years before, in **Michelidakis v. Reginbald,**[430] the Superior Court of Quebec had decided:

[Translation]

> Under the *Immigration Act*, a domicile can only be acquired in this country by a person who comes here legally. Degridakis could only enter Canada because of false representation or stealth, therefore he could not acquire here a lawful domicile within the meaning of immigration laws.

The Commission accordingly *FINDS* that:

49- The notion of the valid acquisition of a Canadian domicile is dissolved, once fraud on entry is established against a suspect.

It is, however, argued in certain quarters that Parliament has spoken with a voice which denies that conclusion. Two legal provisions are called in aid of this submission.

The first such provision is contained in s. 19(1)(e)(viii) of the *Immigration Act 1952*, which declares "subject to deportation", according to its paragraph (2), a person "other than a Canadian citizen or a person with Canadian domicile" who has gained admission through, generally, "fraudulent or improper means". The conclusion is drawn that a Canadian domicile may be acquired by an immigrant in spite of fraud on entry.

This conclusion, in the view of the Commission, bears witness to a quite erroneous reading of the Act. Nowhere does the Act say that a Canadian domicile can be built on the sand of a fraudulent entry. What the Act does say is that, once a Canadian domicile has been established, a further fraudulent entry cannot lead to deportation: his duly obtained Canadian domicile will shield the person involved from deportation. But that is far from saying that a fraudulent entry can be at the root of a Canadian domicile. This latter construction does violence to the spirit and the letter of the Act.

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[429] (1938) 3 *W.W.R.* 241, at p. 246.

[430] (1917), 23 *R. de J.* 375, at p. 377.

The other provision which is invoked by the supporters of the theory of the "fraudulently valid domicile" is ss. 9.(2)(a) of the 1976 *Citizenship Act*. The Commission will quote ss. 9.(2) in full:

> (2) A person shall be deemed to have obtained citizenship by false representation or fraud or by knowingly concealing material circumstances if
>
> (a) he was lawfully admitted to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances; and
>
> (b) he subsequently obtained citizenship because he had been admitted to Canada for permanent residence.

It is argued that Parliament has thus endorsed the principle that fraud on entry can nonetheless lead to lawful admission to Canada and establishment of a valid residence. There are two answers to this objection:

1) Such is not the true meaning of the provision. Parliament cannot be taken to have wanted deliberately to legalize fraud and to confer civil and political rights, however restricted, upon persons resorting to fraud or stealth in order to gain access to Canada. The true meaning of this provision is, therefore, that even though the admission to Canada had been considered lawful, once the fraud was detected, the admission lost that character of lawfulness. This is so true that, lawful as it may have been at the outset, due to the authorities being unaware of the fraud, as soon as this fraud was exposed, the admission lost all effect, and the person involved became liable to having his citizenship revoked.

2) Subsection 9.(2)(a) deals with permanent residence; what we are concerned with is Canadian domicile under the previous Immigration Acts. Whatever effect Parliament may have attached to fraud on entry with respect to permanent residence is not relevant to fraud on entry in relation to Canadian domicile.

The Commission therefore stands by its finding number 49.

ii) *domicile and deportation*

Assuming however, for purposes of discussion, that a valid Canadian domicile could be established in spite of fraud on entry, the further question arises: does this domicile constitute an obstacle to deportation of a war criminal?

Two lines of argument are followed in an effort to support a negative answer to the question.

The first aspect is raised by Messrs. Matas and Cotler. In order to understand clearly the thrust of this discussion, it is first necessary to quote directly from their respective briefs.

Mr. Matas writes:[431]

> The 1952 Immigration Act provides that a person who is denaturalized loses domicile when he ceases to be a citizen.[146] A denaturalized Nazi war criminal would have no protection from domicile, since he would not be domiciled in Canada.

Footnote 146 refers to s. 4(6) of the *Immigration Act 1952*.

Mr. Cotler presents the same argument as follows:[432]

> The present *Immigration Act* does not distinguish between persons with and without Canadian domicile. Earlier versions of the *Immigration Act* did. However, s. 4(6) of the 1952 *Immigration Act* (R.S.C. 1952 Vol. V Chap. 325) makes it clear that loss of citizenship entails deemed loss of domicile as well. Loss of citizenship by reason of false representation or fraud is set out in s. 19(1)(b) of the 1952 *Citizenship Act* (R.S.C. 1952 Vol. II, C.33). Consequently, revocation of citizenship also means loss of domicile by virtue of the operation of s. 4(6), and hence loss of protection from deportation, as found in s. 127. In other words, the bar to deportation against a person who had acquired domicile in Canada is removed when citizenship is revoked.

Unfortunately for the proponents of this theory, their submission suffers from a fatal flaw. It is true that s. 4(6) of the *Immigration Act* provided for automatic loss of domicile consequent on loss of citizenship. It is equally true that s. 19(1)(b) of the *Canadian Citizenship Act* provided for revocation of citizenship as a result of false representation or fraud or concealment of material circumstances. However, the automatic loss under s. 4(6) would not have been triggered even by a successful resort to s. 19(1)(b) resulting in the revocation of the citizenship of a war criminal. The reason is simple: s. 19(1)(b) has been left explicitly out of the ambit of s. 4(6). This latter section in the *Immigration Act* applies when citizenship has been revoked "under section 15, section 17 or paragraph (a), (d), (e) or (f) of subsection (1) of section 19 of the *Canadian Citizenship Act*." None of those provisions applies to war criminals. The one which might have applied, paragraph (b) of ss. 1 of s. 19, has been deliberately left out.

It is, therefore, not correct to generalize and to submit that "a person who is denaturalized loses domicile when he ceases to be a citizen" (Mr. Matas) or that "revocation of citizenship also means loss of domicile by virtue of the operation of s. 4(6)" (Mr. Cotler). This is true in the circumstances *specified* by s. 4(6) of the *Immigration Act*, but *not in all* circumstances, as Messrs. Matas and Cotler have argued. This first line of argument therefore fails.

The second line of argument aims at getting around s. 127 of the *Immigration Act, 1976*:

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[431] Exhibit P-69, p. 52.

[432] Exhibit P-84, p. 44.

127. Where a person acquired Canadian domicile in accordance with the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act and did not lose Canadian domicile before the coming into force of this Act, a deportation order may not be made against that person on the basis of any activity carried on by him before the coming into force of this Act for which a deportation order could not have been made against him under the *Immigration Act* as it read before it was repealed by subsection 128(1) of this Act.

The opponents of deportation argue that almost all suspected war criminals have acquired a Canadian domicile before 1976 and could not, *ex hypothesi*, be deported for war crimes under the previous immigration laws; they cannot be threatened with deportation now. But this time, this argument has an Achilles' heel.

Indeed if the Commission is right in its finding number 49, the suspect concerned will have lost his Canadian domicile, and this decision will show that, due to fraud on entry, this so-called domicile could never have acquired any value and, to use the expression of Professor Williams, was "void *ab initio*". The requirement of s. 127 that, for it to have effect, domicile must not have been lost "before the coming into force of this Act" will therefore be constructively satisfied: domicile will indeed have been lost — one might prefer to say: never acquired — before then. So, for that particular suspect, s. 127 will have become pointless. This second line of argument, therefore, succeeds.

The Commission accordingly *FINDS* that:

50- Even assuming that fraud on entry did not preclude the acquisition thereafter of a "fraudulently valid" Canadian domicile, such a domicile cannot constitute an obstacle to deportation of a war criminal.

In view of all those difficulties, the Commission *RECOMMENDS* that:

51- To dispel doubts surrounding the construction of certain statutory provisions:

a) s. 9 of the *Citizenship Act*, 23-24-25 El. II, c. 108, should be amended by adding a provision making it declaratory, so as to render it explicitly applicable to situations arising under former laws on citizenship and immigration.

b) s. 127 of the *Immigration Act*, 1976, 25-26 El. II, c. 52 should be amended by adding a second paragraph, as follows:

"This section does not apply to a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*".

iii) *country of deportation*

This matter is governed by s. 54 of the *Immigration Act, 1976*. This section foresees various possibilities, with or without the concurrence of the

Minister or the wish of the deportee. In its brief, exhibit P-77, the Interdepartmental Committee has made a detailed analysis of those possibilities (paragraphs 53 through 57), with their individual pros and cons. The Committee has concluded (paragraph 57):

> At the eventual end of the revocation of citizenship/deportation process, then, there may lie a particularly invidious series of options. In the absence of amendments to subsection 54(3), the choice seems to be to permit voluntary departure (with the corresponding inference of connivance in the person obtaining a haven) or returning him summarily to the tender mercies of Soviet or other Eastern European criminal justice. With amendments to subsection 54(3), there is a potentially negative impact from the civil liberties perspective, (by actually or ostensibly circumventing the extradition process) or potential exposure to international embarrassment.
>
> (. . .)
>
> This ultimate choice now appears to be a matter of some concern and it seems therefore to be a prudent matter for consideration prior to the formulation of an initial policy choice.

The Commission has already stated that denaturalization and deportation do not constitute the ideal remedy to the problem of war criminals: it comes, therefore, as no surprise that this remedy may lead to results which are not entirely satisfactory, especially in the selection of the country of deportation. Surely the deportee should not be allowed to pick the country of deportation: even if Canada could maintain that its sole concern is not to tolerate a war criminal on its soil, there would be no great satisfaction in knowing that the deportee has found refuge in an acknowledged haven for war criminals. In a parallel fashion, the Minister should not be restricted in his discretion to direct deportation to a country of his choice which is willing to receive the deportee. Section 54, as presently drafted, does inhibit that discretion, in the event one of the countries listed in ss. 54(2) expresses such willingness. That country might not meet our criteria of fairness in the administration of justice; yet, the Minister would have no discretion but to pursue the execution of the removal order to that very country.

In order to avoid those two unfortunate consequences, the Commission therefore *RECOMMENDS* that:

52- In order to assure the effectiveness of the deportation process in the case of war criminals, s. 54 of the *Immigration Act, 1976* should be amended by adding a paragraph (4), as follows:

"(4) Notwithstanding ss. (1), (2) and (3), when a removal order has been made against a person who has committed or been involved in or associated with a war crime or a crime against humanity, as those crimes are defined in ss. 6(1.9) of the *Criminal Code*, the Minister shall have full and sole discretion to select the country to which that person shall be removed."

e) General observations

In the section of this chapter dealing with possible amendments to Canadian legislation, particularly the *Criminal Code*, the Commission stated the reasons why it would make recommendations concerning war crimes and crimes against humanity, but would "let Parliament, should it so wish, embark upon" dealing with crimes against peace. Hence, recommendation 28 dealt with the introduction of war crimes and crimes against humanity into the *Criminal Code*, but did not refer to crimes against peace.

Logic wanted, of course, that any further reference to this matter take into consideration recommendation 28. Recommendations 44, 48, 51 and 52 suggested, therefore, the introduction into the *Immigration Act, 1976* of provisions which, in turn, referred only to war crimes and crimes against humanity.

The Commission accordingly *RECOMMENDS* that:

53- Should Parliament decide that an amendment to the *Criminal Code*, as proposed in recommendation 28 or otherwise, should encompass crimes against peace, recommendations 44, 48, 51 and 52 should then be understood also to cover crimes against peace.

Chapter I-8

WAR CRIMINALS IN CANADA?

Chapter I-8

WAR CRIMINALS IN CANADA?

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Chapter I-8

WAR CRIMINALS IN CANADA?

1) *Their alleged number*

Over the years various sources, more or less closely related to the matter at hand, have thrown out for public consumption figures allegedly representing the number of war criminals who had found refuge in Canada. The high level reached by some of those figures, together with the wide discrepancy between them, contributed to create both revulsion and interrogation. The sensational allegations concerning Dr. Mengele's connection with Canada were the straw that broke the camel's back: the matter had to be clarified once and for all.

This Commission of Inquiry was entrusted with the task, which it was required to perform within a mercilessly short time frame.

The Commission has made an inventory of the statements published in recent years on the number of war criminals in Canada; this has at once shown how ambiguous those figures can be. One example will suffice to illustrate this point.

Both in his brief before the Commission[1] and in his report to the Solicitor General,[2] Mr. Sol Littman has ventured the figure 3,000. However, care must be taken in reading the text where that figure appears. In both documents, Mr. Littman does not refer simply—and clearly—to war criminals: he speaks of "war criminals and war-time collaborators". Now, there is more than a slight difference between the two categories: war criminals were collaborators, but surely not all collaborators qualify as war criminals. So a figure which pretends to mix both classes of unsavory characters into a single total may be quite misleading when one rather thinks of war criminals as such. Yet no distinction has been made by Mr. Littman, and the Commission entertains no doubt that his figure of 3,000 applies, in the public mind, to war criminals and war criminals alone. This is the unfortunate result of loose language and somewhat careless public statements.

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[1] Exhibit P-18, Part II, p. 1; Part III, p. 1.

[2] Exhibit P-159, p. 9.

Now the Commission does not pretend to have carried out an exhaustive review of the figures quoted from time to time as to war criminals in Canada. Nevertheless, a schedule of the relevant statements which it has collected, should help put the problem in focus.

The Commission has compiled 31 statements uttered from 1971 through 1986: by coincidence the earliest and the latest ones come from the same source, Mr. Simon Wiesenthal. The Commission has arranged two different presentations: the first one by order of dates, the second one by increasing numbers of alleged suspects.

1st Schedule

Statements in chronological order

			Alleged number of war criminals living in Canada
1971, 19 May	Simon Wiesenthal	*Toronto Star*	Several hundred
1975, 26 Dec.	Unidentified groups	*Montreal Gazette*	Over 50
1976, 1 Dec.	Michael Hanusiak	*Toronto Star*	At least 50
1977, 11 Nov.	Ian Adams	*Weekend Magazine*	800
1979, 6 March	Robert Kaplan	House of Commons	Over one dozen
1979, 6 March	Maurice Dupras	House of Commons	Some 15
1979, 25 March	Olivia Ward	*Toronto Star*	Over 1,000
1980, 28 April	Meir Halevi	*Globe and Mail*	200
1981, January	Interdepartmental Committee	Report to government	50-100
1981, 24 Feb.	Sabina Citron	*Globe and Mail*	1,000
1981, 29 May	Abraham Cooper	*Regina Leader-Post*	1,000
1981, 13 July	Irwin Cotler	*Ottawa Citizen*	At least 100
1981, 15 Sept.	Adalbert Rueckerl	*Vancouver Sun*	500-1,000
1982, 18 June	David Matas	*Toronto Star*	50-60
1982, 12 Oct.	Charles Kremer	*Windsor Star*	Over 2,000
1982, 6 Nov.	Dept. of Justice	*Toronto Star*	Handful
1982, 6 Nov.	RCMP	*Toronto Star*	80-100
1982, 6 Nov.	Irwin Cotler	*Toronto Star*	75-100
1983, 13 March	Robert Kaplan	*Toronto Sun*	Over 100
1983, 13 April	Irwin Cotler	*La Presse*	Maybe 1,000
1983, 5 July	Jewish Defence League	*Globe and Mail*	Maybe 1,000
1983, 21 July	Adalbert Rueckerl	*Globe and Mail*	1,000
1983, 21 Nov.	Solicitor General Department	*Globe and Mail*	100
1983, 21 Nov.	Edward Greenspan	*Globe and Mail*	2,000

1st Schedule (continued)

Statements in chronological order

			Alleged number of war criminals living in Canada
1984, 24 Jan.	Sol Littman	*London Free Press*	2,000
1984, 8 Nov.	Sol Littman	*Toronto Star*	3,000
1985, 16 Jan.	Simon Adler	*London Free Press*	1,000
1985, 25 Jan.	Sol Littman	*Toronto Star*	3,000
1985, 7 Feb.	John C. Crosbie	House of Commons	Relatively few
1985, 23 August	Sol Littman	Report to Solicitor General	2-3,000
1986, 16 May	Simon Wiesenthal	*New York Daily News*	6,000[3]

The above schedule shows that the issue of war criminals really came into the limelight in Canada in the early 1980s and that, since the beginning of 1983, the figures quoted by outside interveners never fell below 1,000.

2nd Schedule

Statements in increasing order of figures

			Alleged number of war criminals living in Canada
1982, 6 Nov.	Dept. of Justice	*Toronto Star*	Handful
1985, 7 Feb.	John C. Crosbie	House of Commons	Relatively few
1979, 6 March	Robert Kaplan	House of Commons	Over one dozen
1979, 6 March	Maurice Dupras	House of Commons	Some 15
1976, 1 Dec.	Michael Hanusiak	*Toronto Star*	At least 50
1975, 26 Dec.	Unidentified groups	*Montreal Gazette*	Over 50
1982, 18 June	David Matas	*Toronto Star*	50-60
1981, Jan.	Interdepartmental Committee	Report to government	50-100
1982, 6 Nov.	Irwin Cotler	*Toronto Star*	75-100
1982, 6 Nov.	RCMP	*Toronto Star*	80-100
1983, 21 Nov.	Solicitor General Department	*Globe and Mail*	100
1981, 13 July	Irwin Cotler	*Ottawa Citizen*	At least 100
1983, 14 March	Robert Kaplan	*Toronto Sun*	Over 100
1980, 28 April	Meir Halevi	*Globe and Mail*	200

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[3] The Commission has ascertained from the *New York Daily News* that this figure is correct and is not the result of a printing error.

2nd Schedule (continued)

Statements in increasing order of figures

			Alleged number of war criminals living in Canada
1971, 19 May	Simon Wiesenthal	*Toronto Star*	Several hundred
1977, 11 Nov.	Ian Adams	*Weekend Magazine*	800
1981, 15 Sept.	Adalbert Rueckerl	*Vancouver Sun*	500-1,000
1983, 13 April	Irwin Cotler	*La Presse*	Maybe 1,000
1983, 5 July	Jewish Defence League	*Globe and Mail*	Maybe 1,000
1981, 24 Feb.	Sabina Citron	*Globe and Mail*	1,000
1981, 29 May	Abraham Cooper	*Regina Leader-Post*	1,000
1983, 21 July	Adalbert Rueckerl	*Globe and Mail*	1,000
1985, 16 Jan.	Simon Adler	*London Free Press*	1,000
1979, 25 March	Olivia Ward	*Toronto Star*	Over 1,000
1983, 21 Nov.	Edward Greenspan	*Globe and Mail*	2,000
1984, 24 Jan.	Sol Littman	*London Free Press*	2,000
1982, 12 Oct.	Charles Kremer	*Windsor Star*	Over 2,000
1985, 23 August	Sol Littman	Report to Solicitor General	2-3,000
1984, 8 Nov.	Sol Littman	*Toronto Star*	3,000
1985, 25 Jan.	Sol Littman	*Toronto Star*	3,000
1986, 16 May	Simon Wiesenthal	*New York Daily News*	6,000[4]

Here one sees the dramatic increase in the figures which, in most if not all cases, are only estimates and, more probably, guesses. They fall into two broad categories: 100 and below, 1,000 and over. For the moment, the Commission will not pass judgment on those figures, other than to note that the discrepancies between them are blatant; and so must be their various degrees of reliability.

There the matter rested when this Commission was set up.

The story has been told earlier[5] of the collection of the names of suspects from various sources and the compilation of the Commission's Master List which reached a total of 774 names. This total falls far below the higher figures asserted publicly from time to time over the years; it shows crudely no less than a 400 per cent exaggeration by the proponents of those figures, even leaving aside Wiesenthal's latest statement of 6,000. Yet a detailed examination of each of those cases was bound to bring about a further dramatic decrease in the number of real war criminals; for many of them, the allegations on the surface could not bear scrutiny. A single example: the denunciation as war criminals of a couple bearing a German name, living in a secluded place under the protection of two black dogs and offering old European furniture for sale (cases 179 and 180).

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[4] See footnote 3, this chapter.

[5] See chapter I-5.

The Commission accordingly *FINDS* that:

54- Between 1971 and 1986, public statements by outside interveners concerning alleged war criminals residing in Canada have spread increasingly large and grossly exaggerated figures as to their estimated number.

55- Even leaving aside the figure of 6,000 ventured in 1986 by Mr. Simon Wiesenthal, and before a detailed examination of each of the cases appearing on the Commission's Master List, this list already shows no less than a 400 per cent over-estimate by the proponents of those figures.

Before turning to the individual examination of all the cases on the Master List, it is worthwhile to pause and examine the blanket accusation brought against the members of the Galicia Division. (This Division is known interchangeably as "Galicia", from its German name, or "Halychyna", from its Ukrainian name. The Commission has decided to use Galicia. This choice has been made for reasons of stylistic convenience only and denotes absolutely no preference of substance.)

2) *The Galicia Division*

In February 1949 one of the grounds for rejection of an immigration applicant was stated as follows:[6]

> Member of SS or German Wehrmacht.
> Found to bear mark of SS Blood Group (Non Germans).

In June 1949, an Order-in-Council was passed prohibiting all immigration, save certain exceptions. Relevant to this discussion were the following ones: the immediate relatives of a person legally resident in Canada; agriculturists; farm labourers; persons experienced in mining, lumbering or logging.[7]

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[6] Exhibit P-35, document no. 16, 7 February 1949.

[7] P.C.-2743, 2 June 1949, in exhibit P-14.

There were then living in the United Kingdom several thousand men of Ukrainian origin who had been made prisoners towards the end of the war. In April 1948, Immigration had "decided that favourable consideration cannot be given to the admission to Canada of Ukrainian surrendered enemy personnel held in the United Kingdom as prisoners of war."[8]

But on 31 May 1950, the Canadian cabinet decided "that Ukrainians, presently residing in the United Kingdom, be admitted to Canada notwithstanding their service in the German army provided they are otherwise admissible. These Ukrainians should be subject to special security screening, but should not be rejected on the grounds of their service in the German army."[9]

On 9 June 1950, Order-in-Council P.C.-2856 revoked P.C.-2743, liberalized immigration rules and allowed immigration into Canada, amongst others, of:[10]

> 4. A person who satisfies the Minister, whose decision shall be final, that:—
>
> (a) he is a suitable immigrant having regard to the climatic, social, educational, industrial, labour, or other conditions or requirements of Canada; and
>
> (b) is not undesirable owing to his peculiar customs, habits, modes of life, methods of holding property, or because of his probable inability to become readily adapted and integrated into the life of a Canadian community and to assume the duties of Canadian citizenship within a reasonable time after his entry.

On 15 June 1950, a directive from the Immigration Branch conveyed to the interested services the cabinet's decision of 31 May, adding that the prospective Ukrainian immigrants should conform to P.C.-2743 (by then, should have read: P.C.-2856), be in good health and be in possession of a proper travel document. It also provided for "full security screening" of both "the applicant in Canada and the proposed immigrant".[11]

On the same 15 June, the Honourable Walter Harris, Minister of Citizenship and Immigration, declared in the House of Commons:[12]

> When they were taken prisoners of war by our troops in Italy it was recognized by the allied commander that there were special circumstances in connection with that division because they were not treated entirely as other prisoners of war were. They have been in England since the spring or fall of 1945 (*sic*). We have investigated not individuals but the group as a whole, and we are quite prepared to accept them provided they come within the ordinary rules with respect to immigrants; that is, they might be agricultural workers, settlers, and the like.

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[8] Memorandum from Commissioner, Overseas Service, to Superintendent of European Emigration for Canada, London, England, 26 April 1948.

[9] Memorandum from Deputy Minister of Citizenship and Immigration, 6 June 1950.

[10] P.C.-2856, 9 June 1950, in exhibit P-14.

[11] Directive No. 26 by the Acting Director of the Immigration Branch.

[12] *Hansard*, House of Commons Debates, 15 June 1950, p. 3696.

This statement drew the wrath of the Canadian Jewish Congress. On 4 July 1950, the National President of the C.J.C. sent a long telegram to the Minister protesting the decision. Referring to the Division, he said:[13]

> Its history would suggest need of extraordinary close scrutiny and an examination into the political creed of its members.

The C.J.C. asked for delay.

On 7 July 1950, upon instructions from the Minister, the London immigration office was instructed: "until further notice hold any action concerning that group".[14]

In the meantime the Minister had given to the C.J.C. the assurances it required:[15]

> The decision which I mentioned in the House of Commons merely was that we would no longer refuse these applications solely on the grounds that the Ukrainians in the United Kingdom had served in this Division. There was no suggestion that we would admit anyone who could not conform to the existing requirements in Canada. On the contrary, we shall apply to each of those persons, the same careful scrutiny to the character which is being applied in all cases.

The C.J.C. then furnished the department with two sworn statements (one of which was bearing on events posterior to the hostilities) as well as, at an indeterminate date, a list of 94 suspects from the Galicia Division. Unfortunately, no witnesses were offered in support of the allegations, and in exactly half the cases not even a first name was given to help identify the suspects (the transliteration of names from the Cyrillic to the Roman alphabet rendered the situation still more treacherous).[16]

For its part, Immigration had asked External Affairs on 9 August 1950 to ascertain from the United Kingdom what was the record of the Division. Immigration requested specific information:[17]

> It would be helpful if we knew when and where the Division was recruited, what war service the Division engaged in and where; if they were employed in combat against the "Western Allies". Further, is there any justification for the intimation that this Division was actively engaged in the elimination of the Jewish population of the Ukraine.

The British Foreign Office answered on 4 September 1950, and its answer was relayed to Canada in a dispatch of the following day. In the main it stated:[18]

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[13] Littman Report, exhibit P-159, Appendix B.

[14] Quoted in memorandum from Acting Director, Immigration Branch, 7 July 1950.

[15] Letter from Walter Harris to Samuel Bronfman, 5 July 1950, in Mr. Botiuk's submission, exhibit P-163, p. 63

[16] See original Littman report under heading: The Canadian Jewish Congress List.

[17] Letter from Acting Deputy Minister of Citizenship and Immigration to Under Secretary of State for External Affairs, 9 August 1950, reproduced in Mr. Botiuk's submission, exhibit P-163, at p. 66 *ff*.

[18] *Ibid.*, p. 74

> While in Italy these men were screened by Soviet and British missions and neither then nor subsequently has any evidence been brought to light which would suggest that any of them fought against the Western Allies or engaged in crimes against humanity. Their behaviour since they came to this country has been good and they have never indicated in any way that they are infected with any trace of Nazi ideology.
>
> (. . .)
>
> From the reports of the special mission set up by the War Office to screen these men, it seems clear that they volunteered to fight against the Red Army from nationalistic motives which were given greater impetus by the behaviour of the Soviet authorities during their earlier occupation of the Western Ukraine after the Nazi-Soviet Pact. Although Communist propaganda has constantly attempted to depict these, like so many other refugees, as "quislings" and "war criminals" it is interesting to note that no specific charges of war crimes have been made by the Soviet or any other Government against any member of this group.

Indeed the Division had been recruited by the Germans in the summer and fall of 1943. According to an author quoted by Mr. Botiuk:[19]

> They volunteered for the Division not because of a love of the Germans but because of their hatred for the Russians and the Communist tyranny.

In the summer of 1944 the Division was largely destroyed by the Soviet forces in the battle of Brody, in Western Ukraine: 14,000 men went to battle; 3,000 returned. The Division was reorganized and engaged the Red Army in Austria in the spring of 1945. In early May 1945, the Division surrendered to the British forces. In summary, the Unit was then moved to Italy where it stayed at Rimini for about two years. It was then transferred to England in the spring of 1947. This transfer, however, did not take place before screening by the British authorities: see the report of the Refugee Screening Commission, dated 21 February 1947 and signed by the officer in charge, D. Haldane Porter.[20] According to this report there were, in 1947, 8,272 officers and men of the Division in the camp.

It is interesting to note that the Division had already been screened by a Soviet Mission in August 1945. The British Commission reported in that connection:[21]

> 9. The only effect, which the Soviet Mission's visit appears to have had on the Ukrainians, was to convince any waverers there might have been never to return to the Soviet Union, and to cause a great deal of probably justified anxiety to those who still had relatives there. We must, I think, accept as a definite fact, that all those Ukrainians now in Camp 374 who were screened by the Soviet Mission — that is to say the great majority — are now regarded by the Soviet Government as Soviet citizens, and that having failed to secure their voluntary repatriation the Soviet Government will demand their forcible repatriation as War Criminals when the Italian Treaty comes into force.

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[19] *Ibid.*, p. 11, quoting from Wasyl Veryha, *Along the Roads of World War II*, New Pathway, Toronto, 1980, p. 184.

[20] Reproduced in full in *Heroes of Their Day: The Reminiscences of Bohdan Panchuk*, Multicultural History Society of Ontario, Toronto, 1983, pp. 140-148; also Public Archives of Canada, Ottawa, Citizenship and Immigration Branch, RG-26, vol. 147, file 3-43-1 (copy).

[21] *Ibid.*, Panchuk pp. 144-145, paragraph 9.

The overall findings of the Screening Commission can be highlighted by the two following quotations:[22]

> The general impression which we have formed of all the men in the camp is favourable, as they strike us all as being decent, simple minded sort of people. The national emblem of the Ukraine, in the form of a trident, is freely displayed all over the camp, and the inmates clearly regard themselves as a homogeneous unit, unconnected either with Russia or Poland, and do not seem conscious of having done any wrong.
>
> (. . .)
>
> They probably were not, and certainly do not now seem to be at heart pro-German, and the fact that they did give aid and comfort to the Germans can fairly be considered to have been incidental and not fundamental.

No doubt, largely on the basis of that information and also because no factual information had been produced to incriminate members of the Division, the Minister finally advised the Canadian Jewish Congress on 15 September 1950 that he "intend[ed] to give approval now to applications on hand and to continue the screening process of any applications received in the future."[23]

On 25 September 1950, the President of the C.J.C., Mr. Samuel Bronfman, replied at great length to the Minister.[24] His was an overall attack:

> That each individual who was a member of the Halychina Division ought to be stamped with the stigmata that is attached to the entire body of the SS.

This call, however, went unheeded: on the very same day, the ban was lifted[25] and both Immigration and External Affairs advised their London offices accordingly, reinstating generally the terms and conditions of Directive Number 26 of 15 June 1950[26] which had opened the door to Ukrainian immigrants from the United Kingdom. Last year, according to Mr. Clay Powell, Q.C., the former members of the Galicia Division living in Canada numbered "approximately six hundred".[27]

It is now claimed before the Commission that the decision of the Canadian government in 1950 was a "serious error",[28] that "the investigation, in any event, appears to have been hasty and ill-informed"[29] and that the matter should be examined afresh.

The Commission has refused to embark upon such a collective undertaking, for several reasons:

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[22] *Ibid.*, p. 143, paragraph 6; p. 147, paragraph 11 (C).

[23] Botiuk's submission, exhibit P-163, p. 76.

[24] *Ibid.*, p. 77.

[25] Immigration Branch Directive No. 26, revised 25 September 1950; External Affairs Dispatch C-2805, 2 October 1950.

[26] See footnote 11, this chapter.

[27] Evidence, vol. III, p. 268. Mr. Clay Powell, Q.C., was then acting as counsel to the Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada.

[28] See telegram quoted in footnote 13, this chapter.

[29] Littman report, footnote 16, this chapter.

a) The Commission has not been created to indict one or several particular groups of Canadians. The Commissioner stated in the clearest way in Winnipeg:[30]

> Let me say bluntly that this Commission has not been set up in order to start the Second World War all over again. Therefore, the Commission is not sitting here, nor has it been sitting and will it be sitting elsewhere, to stir unkind feelings among various groups of people in this country. This Commission is not directed at any group of people of any ethnic origin whatsoever, and it is not, therefore, to be used as a kind of platform where old wounds would be re-opened.
>
> The purpose of this Commission, as you know from the Order in Council, is to find out if undesirable individuals, otherwise called war criminals, have slipped into this country and, if so, to advise the government as to how they should be dealt with. There should be, therefore, no fear that, through the process of this Commission, any number of people, large or small, be smeared as a group. The Commission is geared otherwise and shall protect groups, as it has announced it would protect individuals.

b) The Commission has not been created to review government decisions taken by previous generations of public officials. Commission counsel, Mr. Yves Fortier, stated with the approval of the Commission:[31]

> It is a matter of public record that in 1951 [should read: 1950] the Government of Canada, pursuant to certain Cabinet Directives, authorized, subject to appropriate security screening the immigration into Canada of surrendered army personnel who were then detained in the United Kingdom, and who had been members of the so-called Galician Division. It is not the mandate of your Commission of Inquiry to inquire as to whether or not that Directive should have been issued.

c) The Commission has not been created to revive old hatred that once existed abroad between communities which should now live in peace in Canada;

d) The Commission is only interested in individuals, of whatever ethnic origin, who may be seriously suspected of war crimes. In that connection, Mr. Yves Fortier stated rightly:[32]

> If the only allegation against a resident of Canada is that he was a member of the Galician Division, that is not an individual which we consider should be made the subject of an investigation by your Commission. If the allegation is that while he was a member of the Division, he committed atrocities at such-and-such a place, if there is evidence of the committing of atrocities alleged in the information which was conveyed us, then that person becomes of interest to your Commission. We have not before, and will not tomorrow, undertake to rewrite history.

e) A public debate on the Galicia Division would have opened the door to an examination of the whole history of the relations among Ukrainians themselves and between Ukraine and its neighbours, which exceeded by far the time-limits and the human resources of the Commission.

That much being said, a few undeniable facts must nevertheless be faced and dealt with. The so-called Galicia Division had been formed under the name

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[30] Evidence, vol. XII, pp. 1368-1369.

[31] Evidence, vol. XIX, p. 2433.

[32] *Ibid.*, p. 2432.

"14th SS Volunteer Division Galicia". When its training was finished and just before it was sent to the Eastern front, in the spring of 1944, the Division received a new name: "14.Waffengrenadierdivision der SS (gal. Nr. 1)."[33]

It is an acknowledged fact that the members of the Division were volunteers who had enlisted in the spring and summer of 1943, essentially to combat the "Bolsheviks"; indeed, they were never used against Western allies.

During the war and in the immediate post-war period, Flight Lieutenant Bohdan Panchuk, originally from Saskatchewan, headed both the Ukrainian-Canadian Servicemen's Association (U.C.S.A.) and the Central Ukrainian Relief Bureau (C.U.R.B.). On 31 May 1948, he wrote a detailed memorandum designed to help the members of the former Galicia Division achieve, in the United Kingdom or elsewhere, a stable civilian status.[34] In paragraph 12 of this memorandum, Panchuk made the following observation (p. 154):

> In accordance with the general policy for all non-German "foreign" units, the unit was termed Waffen S.S. This should not, however, be mistaken for the actual German S.S. in which only "pure bred" Germans could serve. The Ukrainians were permitted to have priests in their units, they were not given any S.S. identity marks whatsoever and the terminology of their ranks and titles were those of the Wehrmacht.

The International Military Tribunal in Nürnberg did not see fit, however, to go into those fine distinctions: its pronouncements were all-encompassing. It must be remembered that the Tribunal drew its authority in this respect from art. 9 of its *Charter* (p. 8), the first paragraph of which read:

> At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

After noting that "Article 10 of the Charter makes clear that the declaration of criminality against an accused organisation is final, and cannot be challenged in any subsequent criminal proceeding against a member of that organisation",[35] the Tribunal added significantly (*ibid.*):

> The effect of the declaration of criminality by the Tribunal is well illustrated by Law Number 10 of the Control Council of Germany passed on the 20th day of December, 1945, which provides:
>
> "Each of the following acts is recognised as a crime:
>
> ...
>
> (d) Membership in categories of a criminal group or organisation declared criminal by the International Military Tribunal.
>
> ...

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[33] George H. Stein, *Geschichte der Waffen-SS*, Athenäum/Droste Taschenbücher Geschichte, 1978, p. 167.

[34] Reproduced in full in Panchuk's previously quoted memoirs, pp. 152-166: see footnote 20, this chapter.

[35] Judgment of the International Military Tribunal, 30 September—1 October 1946, London, Comd. 6964, p. 66.

> (3) Any person found guilty of any of the crimes above mentioned may upon conviction be punished as shall be determined by the Tribunal to be just. Such punishment may consist of one or more of the following:
>
> (a) Death.
>
> (b) Imprisonment for life or a term of years, with or without hard labour.
>
> (c) Fine, and imprisonment with or without hard labour, in lieu thereof.

The Tribunal then devoted a full chapter to the SS. Its main findings can be excerpted as follows (p. 77):

> The SS was even a more general participant in the commission of war crimes and crimes against humanity.
>
> (. . .)
>
> The SS played a particularly significant role in the persecution of the Jews.
>
> (. . .)
>
> It is impossible to single out any one portion of the SS which was not involved in these criminal activities.
>
> (. . .)
>
> The Tribunal finds that knowledge of these criminal activities was sufficiently general to justify declaring that the SS was a criminal organisation to the extent hereinafter described.

In concluding, the Tribunal included specifically the "members of the Waffen SS". The governing paragraph of the conclusions stated (p. 79):

> The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organisation with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organisation in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organisation in war crimes and crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organisations enumerated in the preceding paragraph prior to 1st September 1939.

The Galicia Division, as part of the organization of the Waffen SS, falls under the terms of this blanket condemnation. However, an extremely important aspect of the condemnation must be stressed. In the body of the judgment, the Tribunal observed (p. 78) "that the SS was a criminal organisation *to the extent hereinafter described*" (emphasis added). In its conclusions, the Tribunal described the group it condemned by imposing certain limitations and recognizing certain exceptions. Quite relevant here is the following explicit passage ". . . those persons . . . who became or remained members of the organisation with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organisation in the commission of such crimes . . .".

The condemnation is therefore pronounced against the group of persons who either had knowledge of, or were personally implicated in, the commission of war crimes by the organization. Membership alone in the Waffen SS does not, in itself, amount to a crime under international law; it must be membership as qualified by the Tribunal in Nürnberg. It implies either knowledge or participation.

This important aspect of the Nürnberg Judgment was stressed by Peter Calvocoressi in his 1947 book on *Nuremberg: The Facts, the Law and the Consequences*:[36]

> For those who were genuinely ignorant the judgment of the Tribunal makes provision by condemning only those members of a criminal organisation who became or remained members with knowledge that it was being used for a criminal purpose. Even the condemned members are not subjected *ipso facto* to pains and penalties by the Nuremberg declaration. No individual can be punished without first having specific charges brought against him personally and without being brought before a court of law. In practice there can be no doubt that only a fraction will be prosecuted.

Now, whether on account of actual participation or mere knowledge, evidence is required. As already outlined, evidence of participation had not been forthcoming in 1950. In 1984, Simon Wiesenthal had supplied a list of 217 former members of the Galicia Division who, according to him, "survived the war and [were] not living in Europe". Since then the Commission has tried repeatedly to obtain the incriminating evidence allegedly in Mr. Wiesenthal's possession, through various oral and written communications with Mr. Wiesenthal himself and with his solicitor, Mr. Martin Mendelsohn of Washington, D.C., but to no avail: telephone calls, letters, even a meeting in New York between Mr. Wiesenthal and Commission Counsel on 1 November 1985 followed up by further direct communications, have succeeded in bringing no positive results, outside of promises. This situation is regrettable; the explanation may lie in the following findings of the Commission.

When Mr. Wiesenthal supplied the above-mentioned list of 217 names to the then Solicitor General Robert Kaplan, he wrote in part:

> Enclosed please find the list of the Ukrainian SS-Officers, who survived the war and are not living in Europe. According to our experience a great number of them should live in Canada.
>
> (. . .)
>
> I hope that the emigration authorities in Canada will find out a great number of that list as Canadian inhabitants (citizens or residents).

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[36] Calvocoressi, Peter. *Nuremberg: The Facts, the Law and the Consequences*, Chatto and Windus, London, 1947, p. 80.

The Commission has investigated the matter and found, as of 22 October 1986, the following results:

never set foot in Canada	187	(i.e., 86 per cent of Wiesenthal's list)
came to Canada and died	11	
came to Canada and left for another country	2	
no *prima facie* case	16	
not located	1	
Total:	217	

It must be known that the RCMP had received the same list in 1984 from Mr. Wiesenthal through the Solicitor General's office. The RCMP's investigation in 1984-1985 failed to uncover any evidence of war crimes against the 31 individuals on that list who, it appeared, *might* have entered Canada.[37]

The investigation by the RCMP and the subsequent inquiries by this Commission were carried out quite independently; yet they reached the same results.

It is obvious that the list of 217 officers of the Galicia Division furnished by Mr. Wiesenthal was nearly totally useless and put the Canadian government, through the RCMP and this Commission, to a considerable amount of purposeless work. That additional information be long in coming may not be surprising, under those circumstances. As a result, evidence of participation in war crimes has remained elusive.

As to evidence of knowledge, it is of course more difficult to proffer. Participation is a physical fact liable to have been witnessed; knowledge is a state of mind which, if not admitted, must be inferred. This was indeed the way which the Nürnberg Tribunal adopted with respect to the SS organization *en bloc* (p. 78):

> . . .its criminal programmes were so widespread, and involved slaughter on such a gigantic scale, that its criminal activities must have been widely known.

To draw such an inference with respect to each individual member of the Galicia Division is a much more difficult process, especially since it is acknowledged that the Division was used only in combat on the Eastern front from the middle of 1944.

It is true that a national court seized with a prosecution alleging the crime of membership in a (Nürnberg-declared) criminal organization can adopt one of two alternative courses:[38]

> The first would be to hold the view that the declaration made by the Nuremberg Tribunal creates a presumption of guilt against every member, and that consequently all the

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[37] Letter from RCMP Commissioner Simmonds to Solicitor General Perrin Beatty, P.C., 12 December 1985.

[38] *Law Reports of Trials of War Criminals*: Selected and Prepared by the United Nations War Crimes Commission, vol. 15, p. 151.

> prosecution is required to do is to establish that the accused was a member of the organization. In this case it was to be presumed, until proof to the contrary was established by the defendant, that he knew of the criminal purposes or acts of the organization or that, if he did not join the organization on a voluntary basis, he was personally implicated in the commission of crimes. The second course would be to hold the view that no presumption of individual guilt derives from the declaration of the Nuremberg Tribunal, and that consequently, the prosecution is called to prove not only that the accused was a member of the organization declared criminal, but also that he knew the relevant facts or (if an involuntary member) that he was personally implicated in the commission of crimes.
>
> (. . .)
>
> In the event the courts have in many cases explicitly ruled that the burden of proof remains on the prosecution.

However, everyone knows that, from peripheral facts a presumption may emerge on which the prosecution can rely to discharge the burden under which it must labour. But this is very different from a reversal of the burden of proof, which the *Charter* in any event has not explicitly sanctioned.

The principle itself that the burden of proof rests on the prosecution has been repeatedly acknowledged by various courts which tried alleged war criminals under the above-quoted provisions of the *Charter*. For example:

In the **Flick** case:[39]

> As we have stated in the beginning, the burden was all the time upon the Prosecution.

In the **Krauch** case:[40]

> This assumption is not in our judgment, a sound basis for shifting the burden of proof to a defendant or for relieving the Prosecution from the obligation of establishing all of the essential ingredients of the crime.

In the **Scheide (Pohl)** case:[41]

> The defendant admits membership in the S.S., an organisation declared to be criminal by the Judgment of the International Military Tribunal, but the Prosecution has offered no evidence that the defendant had knowledge of the criminal activities while a member of such organisation.

The courts, however, have also found, on suitable occasions, that the facts established by the prosecution gave rise to a presumption of knowledge on the part of the defendant. In the **I.G. Farben** case,[42] the court held:

> Proof of the requisite knowledge need not, of course be direct, but may be inferred from circumstances duly established.

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[39] *Ibid.*, p. 152; vol. IX, p. 29.

[40] *Ibid.*, vol. X, p. 59.

[41] *Ibid.*

[42] *Ibid.*, vol. X, p. 59.

Yet, the courts have stressed that this did not relieve the prosecution of its burden: it only showed that the Prosecution had successfully met the challenge. For instance, in the **Justice** case:[43]

> . . . no man . . . could possibly have retained membership of the second and third mentioned organizations without knowledge of their criminal character.
>
> (. . .)
>
> . . . it would be impossible for a man of the defendant's [Oeschey's] intelligence not to have known of the commission of these crimes, at least in part if not entirely.

On all counts, adducing proof of knowledge by an individual member, of the criminal activities of his organization is necessary; and such is not an easy task, though the accumulation of a number of elements may lead to a presumption, rebuttable, nevertheless, by the member.

Assuming, however, for purposes of discussion, that enough evidence could be marshalled to indict the Galicia Division as a whole, and thus render its members liable to a conviction under Law Number 10 of the Control Council of Germany, a rather obvious observation becomes necessary.

The *Charter* of the International Military Tribunal governs these matters. Article 10 provides:

> In cases where a group or organization is declared criminal by the Tribunal, *the competent national authority of any Signatory* shall have the right to bring individuals to trial for membership therein before national, military, or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.
>
> (emphasis added)

Now, Canada is not a signatory of the *Charter*, nor of the 1945 *London Agreement* (exhibit P-7) under which the *Charter* was adopted. Canada did not adhere either to the *London Agreement*, as it could have under art. 5 of the Agreement and as, indeed, 19 other governments did.

No Canadian court could, therefore, claim to exercise jurisdiction over that particular kind of offence.

Finally, this is not a case for denaturalization and deportation. The members of the Galicia Division have never hidden their membership in the Division, nor indeed could they. Canadian authorities were fully aware, in 1950, of the history of the Division. When they gave the green light to the admission of its members, they knew where these members came from and what they had been through. There was, therefore, neither false representation, nor fraud, nor concealment of material circumstances: admission to Canada and subsequently, citizenship, were not tainted with any irregularity.

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[43] *Ibid.*, vol. VI, p. 76.

The Commission accordingly *FINDS* that:

56- The Galicia Division (14.Waffengrenadierdivision der SS [gal. Nr. 1]) should not be indicted as a group.

57- The members of the Galicia Division were individually screened for security purposes before admission to Canada.

58- Charges of war crimes against members of the Galicia Division have never been substantiated, either in 1950 when they were first preferred, or in 1984 when they were renewed, or before this Commission.

59- Further, in the absence of evidence of participation in or knowledge of specific war crimes, mere membership in the Galicia Division is insufficient to justify prosecution.

60- No case can be made against members of the Galicia Division for revocation of citizenship or deportation since the Canadian authorities were fully aware of the relevant facts in 1950 and admission to Canada was not granted them because of any false representation, or fraud, or concealment of material circumstances.

61- In any event, of the 217 officers of the Galicia Division denounced by Mr. Simon Wiesenthal to the Canadian government, 187 (i.e., 86 per cent of the list) never set foot in Canada, 11 have died in Canada, 2 have left for another country, no *prima facie* case has been established against 16 and the last one could not be located.

3) *Individual assessment*

This brings us to what may be the central question of this inquiry: are there indeed war criminals residing in Canada? In order to answer that question, each one of the 774 suspects on the Commission's Master List had to be investigated—here and abroad—outside of the few obviously spurious denunciations received by the Commission. A moment of reflection should bring anyone to realize the colossal amount of work which the Commission had been expected to perform during its short life span; or, more accurately, the amount of work the Commission discovered it must complete within the period of time its creators had deemed sufficient.

But the Master List does not tell the whole story. As is already known[44] two more lists were developed out of necessity: the list called *Addendum* (Appendix II-F) and the list of German scientists and technicians (Appendix

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[44] See Chapter I-5: *Methodology*

II-G). The Commission will report separately on those three lists in this chapter. For the time being, the Commission FINDS that:

62. The Commission has drawn up three lists of suspects: a Master List of 774 names (Appendix II-E); an Addendum of 38 names (Appendix II-F) and a list of 71 German scientists and technicians (Appendix II-G).

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a) The Master List

i. *Confidential cases and foreign evidence*

After a preliminary survey of its Master List, the Commission isolated 29 cases where the seriousness of the allegations and the availability of evidence warranted special attention. Those are cases number 15, 28, 42, 57, 87, 100, 114, 145, 175, 187, 276, 282, 283, 287, 289, 317, 341, 349, 392, 434, 454, 459, 466, 497, 533, 646, 689, 726 and 766. The Commission has reported fully on all these cases in Part II of its report (Confidential).

At this point the Commission will make an anonymous summary of its conclusions on those 29 cases before dealing explicitly with the question of foreign evidence which has arisen in the majority of those cases.

The Commission's recommendations in Part II of its report are rather elaborate and do not offer an easy prey to an attempt at classification. Furthermore, a given case may well open on more than one avenue, so that the total number of recommendations exceeds the number of cases involved. That much being said, the confidential recommendations of the Commission may be broadly grouped as follows:

To close without prosecution	9
To consider an extradition request	1
To seek revocation of citizenship only	3
To seek revocation of citizenship and deportation	7
To request foreign assistance to get evidence to support criminal prosecution	18, i.e., from

Czechoslovakia	3
Hungary	1
Poland	2
U.S.A.	1
U.S.S.R.	8
West Germany	3

Now, this last figure, 18, corresponds by pure chance to the number of cases where the question of foreign evidence has arisen. Indeed, in the course of its work the Commission had identified at least 18 cases where, the suspects residing in Canada, evidence appeared to be available in foreign countries. The countries and cases involved are listed as follows:

	Case Numbers
Austria	145
Czechoslovakia	454, 282, 533
France	222
Hungary	145
Israel	145
Netherlands	392
Poland	459
Romania	87
United Kingdom	287
U.S.A.	287, 533, 497
U.S.S.R.	15, 289, 317, 349, 497, 579, 689, 708 (and 287)
Yugoslavia	175

All but three of those cases are reported on in Part II of this report. The three exceptions, reported on in this Part are the following:

> Number 222, where the suspect was acquitted by the French courts; Number 579, where the suspect died in 1986; Number 708, where the suspect died in 1985.

The Commission now proposes to explain the reasons why it has not travelled abroad in order to gather evidence.

Time, of course, was of the essence. The Canadian government was understandably anxious to get the Commission's report but extended travels were not conducive to a rapid resolution of the issue. The Commission was acutely aware of this situation.

However, the Order-in-Council creating the Commission authorized the Commissioner "to sit at such times and at such places within or outside of Canada as he may decide from time to time". Furthermore the Commission was equally aware of its duty to inquire fairly and thoroughly. It therefore solicited the views of those parties to whom standing had been granted. No problem arose with the possibility of collecting evidence in western democracies, but a great debate ensued in connection with evidence available in Eastern bloc countries. The issues and arguments have all been outlined in the decision "On Foreign Evidence" which the Commission has rendered on 14 November 1985 (Appendix I-M). The Commission decided that "it ought to . . . look for, bring forward or go and listen to all available relevant evidence. This includes evidence which may exist in eastern Europe"[45]. But the Commission stipulated six conditions which had to be agreed to before it would travel abroad to gather evidence[46].

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[45] Appendix I-M, p. 891.

The Commission now turns to an examination of the situation in each country, in light of this decision and of the circumstances prevailing in each particular case.

Netherlands—Case No. 392

This case was investigated in depth by the RCMP who took evidence, through the Department of Justice, in Holland. In turn, the Commission heard the suspect and several witnesses in Canada. The Commission has felt that the inquiry was complete and it is now expressing its opinion in Part II of this report.

France—Case No. 222

The suspect was acquitted of all charges by the *Tribunal militaire permanent* of Bordeaux in 1952. In a next section of this chapter, the Commission recommends that the file be closed.

Yugoslavia—Case No. 175

A request for extradition had been submitted by Yugoslavia in June 1951. For various reasons, Canada did not consider the request favourably. In 1983 the matter was revived, but Yugoslavia declared that it had no further interest in the case. The Commission has nevertheless interrogated the suspect and submits its views in Part II of this report.

Czechoslovakia—Cases No. 454, 282 and 533

In December 1985, the Commission requested the co-operation of the Government of Czechoslovakia in Case No. 454 to arrange for the examination of eight witnesses residing in that country. It was only by a note of 14 October 1986 that the Commission received an answer. The Commission has nevertheless interrogated the suspect, and its views appear in Part II of this report.

The Commission's requests for co-operation in Cases No. 282 and 533 have been ignored. The Commission has nevertheless interrogated both suspects, and its conclusions appear in Part II of this report.

Hungary—Case No. 145

This case involves witnesses in several countries. The suspect had, however, taken an action in damages here in Canada, and the witnesses had been examined in Europe by way of Rogatory Commission. The case was set down for trial in September 1986. The Commission felt it preferable to let the High Court determine the issue rather than duplicating work already done, increasing public expenses and risking an unnecessary interference in the judicial process. The suspect saw fit, however, to desist from his action on the morning of the trial. The Commission then decided to proceed. It obtained the films and transcription of all the evidence taken abroad as well as several relevant documents and it heard the suspect and a witness suggested by him. The Findings and Conclusions of the Commission appear in Part II of this report.

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[46] *Ibid.*, p. 902.

Israel—Case No. 145

In the same case and for the same reasons, the Commission has reached the same decision.

Austria—Case No. 145

In the same case and for the same reasons, the Commission has reached the same decision.

U.S.A.—Cases No. 287, 533 and 497

In case no. 287, a careful analysis has shown that the alleged witnesses were not directly relevant to the case at hand. The Commission has actually interrogated the suspect, and its conclusion appears in Part II of this report.

In case no. 533, the American witnesses agreed to come to Toronto where they were interrogated at the same time as the suspect himself. The Commission's conclusions appear in Part II of this report.

In case no. 497, one witness agreed to come to Toronto where he was interrogated at the same time as the suspect. Another witness refused to come to Canada, but agreed to be interviewed by an investigator of the Commission. The conclusions of the Commission appear in Part II of this report.

United Kingdom—Case No. 287

The same situation has developed as in the U.S.A. concerning the same case.

Romania—Case No. 87

This is one of 17 cases involving alleged former members of the Iron Guard. The Commission has sought the help of the Government of Romania in connection with three suspects; once in September and twice in December 1985. The Commission has received no response. The possibility of obtaining evidence in Romania is still under study. The Commission has interrogated suspect no. 87, and its findings appear in Part II of this report.

U.S.S.R.—Cases No. 15, 289, 317, 349, 497, 579, 689, 708 (and 287)

On 26 November 1985, the Commission, requesting the assistance of the U.S.S.R, sent to the Procurator General of the U.S.S.R. three lists concerning the 43 persons who, over the years, had been alleged by the U.S.S.R. to be war criminals residing in Canada:

List I: 13 of those suspects who were deceased.

List II: 14 of those suspects then residing in Canada, together with names and particulars of 70 possible witnesses living in the U.S.S.R.

List III: 16 of those suspects who had not been found in Canada.

At the same time, the Commission sent a copy of its decision of 14 November 1985 "On Foreign Evidence" (Appendix I-M). This decision had stipulated the six conditions which must be met before the Commission would travel abroad to take evidence:[47]

i) protection of reputations through confidentiality;
ii) independent interpreters;
iii) access to original documents;
iv) access to witnesses' previous statements;
v) freedom of examination of witnesses in agreement with Canadian rules of evidence;
vi) videotaping of such examinations.

On 26 February 1986, an acknowledgement was received from the U.S.S.R.

On 6 March 1986, the Commission drew the U.S.S.R.'s attention to the Commission's deadline (which was then 30 June 1986) as well as to the conditions set out in the Commission's decision of 14 November 1985.

On 30 April 1986, the U.S.S.R. informed the Commission that 34 witnesses concerning two suspects could be examined after 10 June and that the search for others was going on. The message concluded: "The prospects of the mutual work with regard to these war criminals will be agreed upon with the representatives of the commission upon their arrival in the U.S.S.R."[48]

On 7 May 1986, the Commission answered, asking particulars of the 34 witnesses as well as an "assurance that the conditions set out in the Commissioner's decision of November 14, 1985 are acceptable to Soviet authorities and will be observed."

On 26 May 1986, the U.S.S.R. agreed to videotaping and independent interpreters and stenographers. It stated however that the interrogations would proceed "in the framework of the criminal procedure legislation of the Ukrainian SSR. . .".

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[47] *Ibid.*

[48] Last paragraph of unsigned message delivered on 30 April 1986.

Immediately, (i.e., on 29 May 1986), the Commission expressed its regrets that the U.S.S.R. had failed to agree to the conditions respecting access to original documents and to witnesses' previous statements as well as freedom of examination in agreement with Canadian rules of evidence. The Commission also pointed out that the condition as to confidentiality had already been breached by officials of the Soviet embassy in Ottawa.

On 9 June 1986, the U.S.S.R. finally agreed to the conditions laid down by the Commission and indicated that the examination of witnesses were "planned to be held in the city of Lvov".

Unfortunately, this answer arrived much too late; the negotiations had lasted nearly seven months. In the meantime, the Commission had oriented its program otherwise and explored other avenues. The planned visit to the U.S.S.R. would have lasted at least a full month, yet dealt with only two suspects. The Commission, however, had already arranged a full schedule of interrogations of suspects and witnesses for the month of July, and it was in duty bound to report by the end of September. Regrettable as the occurrence was, there remained obviously no time for a trip which had been considered much earlier. So it was that no witnesses could be examined in the U.S.S.R.

It should be added that, in their letter of 11 June 1986, Commission counsel pointed out:

> This decision would not, however, prevent the Government of Canada, once in receipt of the Commission's findings and recommendations, and if it considers it necessary, from availing itself of an invitation to send representatives to the Soviet Union in order to gather any further information against alleged war criminals in accordance with the conditions to which you have now agreed.

In the meantime the Commission has examined in Canada all the abovementioned suspects with the exception of No. 708, who died in January 1985, of No. 15 who was ill, and of No. 579 who died in June 1986. The Commission also examined six other suspects appearing on its List II, in connection with whom there did not appear to exist witnesses in the U.S.S.R. The Commission's conclusions on all of them appear in Part II of this report.

Poland—Case No. 459

On 23 December 1985, the Commission requested the assistance of the Polish government in connection with this suspect whose extradition had been sought by Poland in December 1982. The matter followed a course somewhat similar to that described above with the U.S.S.R.

In April 1986, the Polish authorities advised that two witnesses were dead and that five could be examined; four in Lublin and one in Warsaw.

On 7 May, the Commission sought the assurance that the conditions set out in its decision of 14 November 1985 would be observed.

Towards the end of May, the Polish authorities gave their agreement to five of the Commission's conditions; but they stressed that "Polish judge will interrogate and Canadian prosecutors may ask any additional questions they consider necessary".

This of course led the Commission counsel to reply on 29 May 1986:

> On the other hand, we note that you have stressed that a Polish judge will control the proceedings and will examine witnesses and we will only have the opportunity to ask additional questions. We regret that you have not agreed to provide the Commission with the freedom of examination of witnesses in agreement with Canadian rules of evidence that we require.
>
> Without your agreement to this last and most important condition, it will be impossible for this Commission to consider travelling to Poland to examine witnesses within the framework outlined by you.

In spite of the failure of those negotiations, the Commission has interrogated the suspect and interviewed several witnesses indicated by him in Canada. The Commission's conclusions appear in Part II of this report.

The Commission has thus dealt with the 12 foreign countries where it appeared, at one time or another, that relevant evidence might be available.

The Commission now takes this opportunity to *RECOMMEND* that:

63- Where the evidence at hand raises a serious suspicion of war crimes against an individual residing in Canada, the Government of Canada should obtain, where available, the evidence of witnesses living in a foreign country provided such country agrees, as the U.S.S.R. has done, to all the conditions stipulated by the Commission in its decision "On Foreign Evidence" of 14 November 1985 (Appendix I-M).

ii. *Cases to be closed*

It must be recalled that Part I of this report is concerned with 745 of the 774 cases appearing on the Master List.

The first category to be considered comprises those cases which should obviously be closed without further ado. It includes five kinds of cases.

The *first kind* of cases to be closed involves those cases where the suspect never set foot in Canada. The Order-in-Council creating the Commission has instructed it to investigate, in law and in fact, the question of war criminals "currently resident in Canada". Others therefore do not fall within the mandate of the Commission.

At first sight, it may appear strange that the Commission be called upon to inquire into an individual who is not residing in Canada and actually never came to this country. But a simple example will illustrate the reality and the magnitude of the problem: Mr. Wiesenthal had supplied the names of 217 former officers of the Galicia Division; the Commission found that no less than 186 had never come to Canada.

The Commission has determined that 341 suspects drawn to its attention have actually never landed and are not residing in Canada.

The Commission accordingly *RECOMMENDS* that:

64- The files of the 341 suspects who never landed and are not residing in Canada should be closed.

The *second kind* of cases which should be closed are those of suspects who landed in Canada, but left for another country. The Commission has found 21 such cases. In the course of those inquiries, the Commission has also ascertained that at least 5 of those suspects have since then died in the following countries:

1970 West Germany
1972 Brazil
1976 France
1977 U.S.S.R.
1983 West Germany

The Commission accordingly *RECOMMENDS* that:

65- The files of the 21 suspects who have landed in Canada, but left for another country (at least five of whom are deceased) should be closed.

The *third kind* of cases which should be closed is comprised of those individuals who have landed in Canada, but have died in this country since then. The Commission has found 86 such cases. Here follow two tables: one shows the provinces where the deaths occurred; the other shows the years when they took place.

Table I: Provinces of death

Alberta	8
British Columbia	3
Manitoba	9
Ontario	48
Quebec	17
Unknown	1

Table II: Years of death

1953	2	1975	1
1956	1	1976	3
1958	1	1977	6
1959	1	1978	2
1960	1	1979	7
1961	3	1980	5
1962	1	1981	4
1963	2	1982	8
1966	1	1983	5
1969	5	1984	5
1970	3	1985	8
1972	4	1986	2
1973	5		

The Commission accordingly *RECOMMENDS* that:

66- The files of the 86 suspects who have died in Canada since landing in this country should be closed.

The *fourth kind* of cases which should be closed is made up of those suspects against whom there exists no *prima facie* evidence of war crimes. Neighbourly animosity, racial prejudice, mistaken belief, etc.: all sorts of reasons may explain the denunciation as war criminals of some obviously innocent individuals. There must also be included in this paragraph those numerous cases where there is simply no evidence available to substantiate an apparently serious allegation. In all, the Commission has found 154 such cases.

The Commission accordingly *RECOMMENDS* that:

67- The files of the 154 suspects against whom the Commission could find no *prima facie* evidence of war crimes should be closed.

The *fifth kind* of cases which should be closed is made up of the 4 suspects whom the Commission has been unable to locate in Canada. After months of searches, it is unlikely that those suspects will be found; all kinds of reasons may explain their disappearance. In the opinion of the Commission, no further energies should be spent on this search.

The Commission accordingly *RECOMMENDS* that:

68- The files of the 4 suspects whom the Commission has been unable to find in Canada should be closed.

69- The last five figures for a total of 606 files which should therefore be closed immediately.

iii. *Cases to be further investigated*

Some may find rather substantial the number of cases where some kind of additional investigation would appear necessary or, at least, useful: 105 in all. A word of explanation is not superfluous.

In chapter I-5: *Methodology*, the Commission has exposed the reasons for its policy decision not to ask an eastern bloc country for available evidence, when this country had not already denounced on its own initiative an individual who has now become a Canadian citizen. Yet, some 97 such cases have arisen where incriminating evidence might well be found, provided the cooperation of the foreign country concerned be requested. This, in the view of the Commission, is a policy decision which had better be left in the hands of the Canadian Government. In all those cases, the Commission has therefore made the following standard recommendations:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the government of —— or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the government of —— or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

This problem of further investigations, as well as that of interrogatories of additional suspects, arise in the following numbers:

Cases for investigation in a single country

Hungary	11
Poland	7
Romania	13
U.S.S.R.	49
West Germany	1
Yugoslavia	2
Total	83

Cases for investigation in a single country coupled with interrogation of the suspect in Canada

France	2
Romania	1
U.S.S.R.	4
Yugoslavia	1
Total	8

Case for investigation in several countries

Hungary and U.S.S.R.	1

Cases for investigation in several countries coupled with interrogation of the suspect in Canada

France and Yugoslavia	1
U.S.A. and Yugoslavia	1
U.S.S.R. and West Germany	1
U.S.S.R. and Israel	1
West Germany, Czechoslovakia, Hungary and Yugoslavia	1
Total	5

There are, therefore, 97 cases where the opportunity of further investigation abroad must be considered; in 13 of those, the suspects should also be interrogated. In 5 other cases where no additional investigation is necessary, the suspects should be interrogated.

The Commission accordingly *RECOMMENDS* that:

70- The Canadian Government should decide, as a matter of policy, whether to request the cooperation of those foreign governments which have not already denounced, on their own initiative, the 97 suspects, residing in Canada, against whom there may exist incriminating evidence abroad, namely: France, Czechoslovakia, Hungary, Israel, Poland, Romania, U.S.A., U.S.S.R., West Germany, Yugoslavia.

71- The appropriate Canadian authorities should interrogate 13 of those suspects, as well as 5 others in whose connection no further investigation abroad is indicated.

iv. *Miscellaneous cases*

In 3 cases, the Commission has reached miscellaneous conclusions; for example in case number 01, where the recommendations of the Commission must be tailored according to the possibility of an alteration in the suspect's name.

Finally, 34 cases are still outstanding for various reasons, essentially because answers have not yet been received from foreign agencies.

The Commission accordingly *RECOMMENDS* that:

72- The 3 miscellaneous cases should be pursued according to the Commission's recommendations.

73- In 34 cases which remain outstanding, a decision should be taken as soon as answers from foreign agencies or other missing information are received.

The detailed recommendations of the Commission concerning 711 suspects appear in section d) of this chapter.

b) *the Addendum*

The Master List was closed on 1 October 1986. Names continued, however, to flow into the Commission's offices, nineteen months after the setting up of the Commission. Those names, 38 in all, were channelled to a separate list since it was obvious that the Commission could not investigate them in any manner consonant with its mandate. Nevertheless, some steps were taken which time permitted.

Results of the work of the Commission on the 38 cases appearing on this Addendum are given in section e) of this chapter.

The Commission accordingly *RECOMMENDS* that:

74- Work be pursued by the appropriate authorities concerning the 38 suspects appearing on the late Addendum list, in agreement with the relevant recommendations of the Commission.

c) *the List of German scientists and technicians*

The Commission has explained in chapter I-5: "Methodology" how this list of 71 names came to be drawn up and investigated. It remains to conclude.

Most unfortunately, this particular matter did not come to the attention of the Commission until very late in the course of its mandate; the time constraints severely limited the scope of its efforts to clarify this issue. Nevertheless, the Commission has first been able to ascertain that, out of the 71 names on this particular list:

9 entered Canada and have died in this country;
4 entered Canada and have left for another country;
2 never entered Canada;
1 shows no *prima facie* case.

As to the remaining 55, further inquiries are still necessary if one wants to achieve a reasonable degree of certainty:

in 21 cases, the Department of Employment and Immigration has reported that it possesses no evidence of entry into Canada; this must be completed by checks with External Affairs (passport) and Secretary of State (citizenship) before a definite conclusion is reached;

in 7 cases, the departments of Employment and Immigration and External Affairs have both furnished negative responses; here again a further check with Citizenship is necessary;

in 19 cases, entry into Canada has been documented, but the Commission has been unable to locate the individuals concerned in Canada. There are indications that, in at least two of those cases, the individual concerned has left for the U.S.A.;

in 8 cases, the individuals have been located in Canada, but further inquiries are necessary concerning incriminating evidence.

The detailed findings of the Commission on those 71 names appear in section f) of this chapter.

The Commission accordingly *RECOMMENDS* that:

75- Among the 71 files on German scientists and technicians (Appendix II-G) the following cases should be closed:

- **9 who entered Canada and have died in this country;**
- **4 who entered Canada and left for another country;**
- **2 who never entered Canada;**
- **1 where there is no *prima facie* case.**

76- In the 55 remaining files of this particular group, the Government of Canada should carry out the additional inquiries indicated in each individual opinion (see section f) of chapter I-8) and then make a decision accordingly.

d) 711 individual opinions on cases from the Master List

CASE NO. 01

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs forwarded a letter referring to the subject as a defector and stating that a report on his interrogation was "probably of military interest only". The letter also stated that some of the names referred to in the letter had been altered.

The Commission conducted CPIC and MVB searches against the subject and checked with a Provincial Police force, all with negative results.

The Commission confirmed that the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository had no record of the subject.

The Commission accordingly *RECOMMENDS* that:

1- **The question of the alteration of the name of the subject should be clarified with CSIS and the Department of External Affairs.**

2- **If the subject's name has not been altered, the file should be closed.**

3- **If the subject's name has been altered, all external checks should be conducted afresh under the subject's name during the war years; depending upon the responses to those checks and the success in attempting to locate the subject, the file should be re-assessed and a final decision taken.**

CASE NO. 02

Name stricken off Master List.

CASE NO. 03

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative and the Commission was advised by officials of the West European country that they had no evidence that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 04

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress.

The Commission requested the departments of Employment and Immigration, Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1948. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1955. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

The Commission has also confirmed that the subject died in Canada in 1969. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 05

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no specific suggestion or evidence that the subject was ever involved in war crimes. Rather, he was being investigated by Canadian authorities in response to a request by foreign authorities that he be allowed to immigrate to Canada.

The Commission reviewed material available from the RCMP and from CSIS and determined that the subject abandoned his application for entry in 1955.

The Commission requested the departments of Employment and Immigration and the Secretary of State to conduct checks to ascertain whether the subject had entered Canada at any time since 1955. These departments reported negative search results.

The Commission also confirmed that the Berlin Document Center in West Germany had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 06

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals possibly residing in Canada provided by the then Department of Manpower and Immigration. There was no specific allegation or evidence that the subject committed war crimes or entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 07

This individual was brought to the attention of the Commission by The League for Human Rights of B'nai Brith, Canada, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, who was reported to be living in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain how the subject had entered Canada, and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The

Department of External Affairs reported that the subject was granted a Canadian certificate of identity, and subsequently passports on four occasions.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin did have a record of the subject which disclosed only that the subject was a member of the Wehrmacht.

The Commission located the subject in Canada in 1986. However, the Commission was unable to ascertain any allegation or evidence that the subject had been involved in criminal wartime activities.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 08

This individual was brought to the attention of the Commission by an individual, whose source of information was a researcher who has done work for a foreign organization at the Yad Vashem archives in Israel. It was alleged that this individual had murdered Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the Yad Vashem archives or of Eastern Bloc authorities whether they might possess some evidence of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the Yad Vashem archives, to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the Yad Vashem archives, to the relevant government or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 09

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 10

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951. The Department of the Secretary of State advised that the subject did not apply for Canadian citizenship. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

The Commission has also confirmed that the subject died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 11

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a foreign publication. It was alleged that as a member in the army of an Eastern European country, this individual was in charge of a specific unit stationed in that country, which engaged in punitive expeditions and mass murder. He was well known as a result of his conviction by a West European country for war crimes. Mr. Littman raised the issue of whether this individual had come to Canada following his conviction. Mr. Littman suggested that this individual may have been resident in a specific Canadian city, though there was no evidence that he had entered or been resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches in Canada against the subject, with negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 12

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks with police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was also advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission also confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 13

This individual was brought to the attention of the Commission by The League for Human Rights of B'nai Brith, Canada, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, who was reported to be living in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain how the subject had entered Canada, and whether he had applied for citizenship or a passport. The departments of Employment and Immigration and External Affairs reported negative search results. The Department of the Secretary of State reported that the subject had been granted Canadian citizenship in 1961, and had entered Canada in 1955.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin did have a record of the subject which disclosed only that the subject was a member of the Waffen-SS.

The Commission located the subject in Canada in 1986. However, the Commission was unable to ascertain any allegation or evidence that the subject had been involved in criminal wartime activities.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 14

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative and the Commission was advised by officials of the West European country that they had no evidence that the subject had entered Canada.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 15

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 16

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign article. The article alleged that the subject co-operated with the German forces in Eastern Europe in 1941-1943, had been chief of the local Nazi police force and had murdered civilians. No specific dates or other particulars were given although two individuals reportedly living in an Eastern European country were cited as witnesses.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a name similar to that of the subject entered Canada in 1947. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of this individual.

Further checks with police and motor vehicle records and investigations by the Commission's staff revealed that the individual with a name similar to the subject's was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in that country, the file should be closed.**

2. **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres in that country, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 17

This individual was brought to the attention of the Commission by the Canadian Jewish Congress (exhibit C-46). The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from the assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no record in respect of the subject.

Further checks by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 18

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galician Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 19

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, beyond membership in the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, had any record in respect of the subject. The Berlin Document Center reported it could not conduct a search without further details.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository reported that their records indicated that the subject's service was in the Wehrmacht, quite contrary to the allegation that he had served with the SS.

The Commission reviewed UNWCC files concerning an individual with the same surname as the subject but no given name indicated. It concluded, however, that they were different people. The UN files indicate a person who was a high-ranking SS officer during the time in which the Canadian citizen was in communications with the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 20

This individual was brought to the attention of the Commission by the League for Human Rights of B'nai Brith, Canada, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the League for Human Rights, and determined that he had no additional information relevant to the Commission's inquiries. In fact, his complaint was founded only on the fact that the subject spoke German and was educated in a West European city.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 21

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galician Division of the Waffen-SS. In

addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 21.1

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that the subject under investigation had been a guard at a specific death camp in an Eastern European country in 1943 and the complainant provided the Commission with a photocopy of what purported to be Nazi documents confirming this. The material also included what purported to be a card containing a thumb print of the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Both search responses were negative. Through other investigations, the Commission has determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record of the subject. The Berlin Document Center reported that an individual with the same surname, date and place of birth but a different first name was granted German citizenship and employment in Germany in 1940.

The Commission interviewed the individual who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

On the basis of the available evidence, there is no *prima facie* case of the actual commission of war crimes by the subject under investigation, although the documents provided would, if accurate, indicate that the subject's activities during the war ought to be thoroughly investigated. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the subject should first be summoned by the appropriate authorities for an interrogation on his wartime activities.**

3- **The matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. 22

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The department of Employment and Immigration reported that the subject entered Canada in 1951. The department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 23

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a foreign publication. It was alleged that this individual was a police investigator who participated in the torture and execution of civilians and prisoners of war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 24

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of a paramilitary fascist organization.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1968. The Department of External Affairs reported that it had issued a passport to the subject.

The Commission conducted an MVB search and determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country relevant in this case whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 25

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by authorities of an Eastern Bloc country. It was alleged that this individual ordered the shooting and hanging of citizens and the burning of their settlement during the war, and was thereafter resident in a certain city in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission contacted the relevant country's officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 26

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was the American Jewish Committee. It was alleged that the subject had committed war crimes in towns in Eastern Europe where he had held posts of civil authority.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1953. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1958. The Department of External Affairs reported that the immigrant was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB Searches against both the subject and the immigrant. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the immigrant to be resident in Canada in 1986.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that the immigrant had served in the Wehrmacht in 1944. He was not a national of the country where the alleged crimes had occurred, but was from an area far removed from the towns where the subject was alleged to have held posts of civil authority.

The Commission checked United Nations War Crimes Commission files and found no reference to the subject or the immigrant.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, nor the Berlin Sick Book Depository, had any record of the subject or the immigrant.

On the basis of the available evidence, it can be concluded that the immigrant to Canada is not the subject. He served in the Wehrmacht, but that does not amount to a *prima facie* case of war crimes against him, nor did it operate as a bar to entry at the time he entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 27

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 28

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 29

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that the subject had volunteered for the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport.

The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission reviewed materials available from the RCMP of an interview of the citizen who submitted the subject's name to the RCMP, as well as of other people who knew him. The Commission determined that they had no additional information relevant to the Commission's inquiries, and indeed, they did not suggest he had committed a war crime at all.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the other hand, RCMP records of an interview of the subject indicated he admitted to having served in the SS, in a particular division in an Eastern European country. Inquiries were made of foreign authorities as to whether the Division was somehow notorious for its involvement in committing war crimes. As of 1 October 1986 the results of these inquiries are still outstanding.

Some evidence is available indicating that the subject withheld the fact that he had been a member of the SS upon making application to enter Canada. He used a different name from that which he had used as a soldier, possibly to avoid detection.

On the basis of the evidence available to date, there is no *prima facie* case of war crimes against the subject. However, several inquiries are still outstanding.

The Commission accordingly ***RECOMMENDS*** that:

1- **The subject should be summoned by the appropriate authorities for interrogation on his wartime activities as well as on the circumstances leading to his immigration and citizenship.**

2- **The Canadian government should pursue the inquiries made of the relevant foreign governments on the history of the subject's Division.**

3- **Should those inquiries bring to light incriminating evidence, the matter should be re-assessed and a decision taken as to a possible prosecution.**

4- **Should no such evidence become available, the Canadian government should consider the advisability of pursuing revocation of citizenship and deportation of the subject, based on his failure to disclose his SS history.**

CASE NO. 30

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galician Division of the Waffen-SS and in the military police.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Finally, the Commission confirmed that the subject died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 31

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes against this individual apart from the fact that he was convicted by a court in a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1961. All other search responses were negative.

The Commission confirmed that neither the Berlin Document Center, the Berlin Sick Book Depository, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster had any record in respect of the subject.

The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported that it had no record of the subject nor of his alleged conviction.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject which indicated that he was a pilot in the Luftwaffe until 1942.

After thorough investigation, including the source of the allegation, the Commission determined that the subject returned to a West European country and died there in the early 1970s.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 32

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had admitted being involved as a high-ranking SS officer in overseeing labour camps.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission determined that the subject died in Canada in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 33

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and the RCMP, whose source of information was

Mr. Sol Littman. It was alleged that this individual, as a policeman, had participated in the execution of the civilian population.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted a CPIC search against the subject with negative results.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that the subject was named on a Wiesenthal List.

The Commission confirmed that neither the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 34

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a publication in which it was alleged that this individual was formerly active in the government of an occupied Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission found the subject to be resident in Canada in 1986.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of former German Wehrmacht (WASt) in Berlin that it had a record indicating that the subject had been in the army of an Eastern European country prior to being taken prisoner.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the army of an Eastern European country is available. Without such evidence, and based upon the reasoning set out in chapter I-8 of this Report (see finding no. 59) pertaining to the Galicia Division, membership in the specific army unit is insufficient to establish a *prima facie* case for the Commission's purposes, nor was it a bar to entry at the time the subject entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 35

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. The letter contained no specific allegation or evidence that the subject committed war crimes other than Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 36

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 37

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 38

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject had been a member of the Security Police in an Eastern European country, and was responsible "for many deaths". Mr. Littman indicated that the basis of his information was a file in the possession of a foreign authority. Mr. Littman also advised that the subject was thought to be living at an unspecified address in another country and for this reason should not have been included in the names submitted by Mr. Littman to the Commission.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 39

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign newspaper article. It was alleged that the subject had worked for German Intelligence in denouncing persons to the German forces occupying an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC, MVB and other searches against the subject and determined the subject to be resident in Canada in 1986.

The Commission approached a relevant survivor group and determined that it had no information to confirm or deny the allegations against the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly ***RECOMMENDS*** that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 40

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject had been a speech writer for a Nazi puppet leader. Apart from the foregoing, there was no specific allegation or evidence that the subject committed war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951. The Department of the Secretary of State advised that the subject was not granted Canadian citizenship. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

The Commission has also confirmed that the subject died in Canada in 1961. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 41

This individual was brought to the attention of the Commission by both the Canadian Jewish Congress and Mr. Sol Littman, whose source of information was a newspaper publication. It was alleged that this individual had been involved in the Galicia Division of the Waffen-SS, though there was no specific allegation or evidence that he had otherwise been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The immigrant was reported to have been born in 1885. If alive, the immigrant would now be 101 years of age.

In view of the discrepancy between the names of the subject and the immigrant, and the unlikely prospect that the immigrant is still alive, it is recommended that the file on the subject be closed.

CASE NO. 42

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 43

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted an MVB search and determined that the subject was resident in Canada in 1986.

The Commission was advised by the Berlin Document Center and by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that they had records of the subject which confirm his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg,

West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any further information on the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 44

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 45

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a publication in which it was alleged that this individual had persecuted Jews in a certain Eastern European country as a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted Canadian passports on five occasions.

The Commission conducted CPIC and MVB searches against the subject and determined the subject to be resident in Canada in 1986.

The Commission reviewed materials available from the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Document Sick Book Depository and found that the subject had indeed served in the SS and that he eventually became an officer. It was not clear, however, whether he actually served in the area where the alleged incidents took place or at the time the incidents took place.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The mere fact of subject's former service in the Waffen-SS would have been a major consideration at the time he entered Canada in 1949, but some non-German former Waffen-SS members were being allowed in by then, so his entry would not necessarily have been precluded.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed;**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 46

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a document of unknown origin. It was alleged that this individual had served in the SS and had been employed in the execution of Jewish civilians, on more than one occasion.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and similar first name entered Canada in 1948. The Department of the Secretary of State reported that the same individual whose first name now matched that of the subject under investigation was granted Canadian citizenship in 1957. The citizenship application indicated that he arrived in Canada but exactly one year earlier than Immigration had reported. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted Vital Statistics, CPIC and MVB searches on the subject and determined that he was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported only that the subject had been named in a Wiesenthal list.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 47

Name stricken off Master List.

CASE NO. 48

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter. It was alleged that the subject had provided unspecified services to the Nazis prior to 1939.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission also checked with the Berlin Document Center which provided documentation dealing with the individual's war record but which did not disclose any evidence that the subject had committed any war crimes. In addition, the original anonymous allegation referred to activities prior to 1939, thus before the outbreak of the war; this period falls outside the mandate of the Commission in any event.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 49

This individual was brought to the attention of the Commission by correspondence to the Honourable Robert Kaplan, P.C., M.P. from Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1968. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1974. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted an MVB search and determined that the subject was resident in Canada in 1986.

The Commission was advised by the Berlin Document Center and by the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, that they have records of the subject which confirm his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository had no record of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The records from West Germany also indicate that the subject was a member of a particular military unit prior to joining the Galicia Division. That formation organized under the aegis of the Abwehr, was investigated by the Chief Public Prosecutor's Office in Bonn. This investigation concluded that the unit as a whole did not perpetrate any war crimes although it did not exclude the possibility that individual members of the unit, against instructions and orders received, may have taken part in certain specific atrocities committed in 1941. There is no allegation or evidence that the subject himself was such an individual. Rather, it is his status as a former Galicia Division member that is the alleged war crime.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59). Nor is there evidence available to build a *prima facie* case that membership in the particular military unit concerned amounts to involvement in war crimes or to a bar to entry to Canada.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 50

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 51

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 52

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record with respect to the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 53

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had been involved in the Gestapo.

The RCMP interviewed the subject who stated that he entered Canada under another name because he was allegedly under a sentence of death in an Eastern European country. He would not elaborate on this statement. Subsequent to his entry, he legally changed his name back to his birth name.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 under virtually the same name he had given to the RCMP.

The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955, again under a variant of the name he had given the RCMP. It should be noted that on the citizenship application form, he was asked to give his former name and his response was "same name". Citizenship records also indicated that he changed his name to his current name in 1974.

The Department of External Affairs reported that the subject was granted Canadian passports twice (although the records are virtually indecipherable) and again later under his name of entry into Canada and a fourth time under his name of birth. It should be noted that the date of birth this individual used when he was using the name under which he entered Canada differs from the date of birth used under his current name.

The Commission confirmed that the individual legally changed his name as alleged, giving as the reason that he wished to revert to his true birth name and that of his father. There is no explanation for the different birth dates.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject under the name he used prior to entry into Canada and that the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository, had no record of the subject under either name.

Regarding the alleged death sentence, the Commission requested the Department of External Affairs to obtain from the appropriate authorities of the Eastern European country details of the alleged sentence including specific charges, evidence available and conviction particulars. More than five months later, the Commission was provided with a statement that a person with a name similar to the name the subject used prior to entry into Canada was declared a war criminal in 1946. The statement included allegations of the subject's wartime activities.

Interesting as it was, the response was incomplete. Therefore, the Commission reiterated its request regarding available evidence in the form of witnesses and also requested copies of the documents upon which the above-noted allegations were made. This request was made in April 1986, and at the time of writing, there has been no response.

Due to the lack of available evidence, there is no *prima facie* case of war crimes against the subject.

However, the Commission *RECOMMENDS* that:

1- **The Canadian government should pursue the Commission's efforts in order to obtain from the authorities of the Eastern European country the documents supporting allegations against the subject as well as the witnesses who may still be available for examination.**

2- **In the event that the material and individuals referred to in recommendation 1 are forthcoming, the matter ought to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

3- **Should the Government of Canada not wish, as a matter of policy, to pursue this matter with the relevant government, the file ought to be closed.**

CASE NO. 54

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There were no allegations of war crimes on the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that four individuals having the same name as the subject under investigation entered Canada, one in 1951, and three others in 1957. The Department of the Secretary of State reported that the first individual was granted Canadian citizenship in 1957. There was no record in respect of any of the other individuals. The Department of External Affairs reported that the first individual was subsequently granted Canadian passports five times. All but the first of these passports indicated that the individual's mailing address was in a foreign country.

The Commission conducted MVB, credit and street and name directory searches against the subject. All search responses were negative. A CPIC search revealed that the first individual had been charged with an offence not relevant to the Commission's mandate in 1959 and that the charge had been dismissed. Through other investigations the Commission determined that the first individual was admitted as a permanent resident in a foreign country in 1962.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject under any of the birth dates available to the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 54.1

This individual was brought to the attention of the Commission by a private citizen, who alleges that the subject had been an official in the SS in a West European country and that he boasted of killing Jews and others.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport.

The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports twice.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries. He is of an advanced age and for some time has been in a state of confusion.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 55

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS. Further, the Center indicated the subject was reported missing in action in 1944.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 56

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had been a Nazi and had been guilty of unspecified cruelty.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission was advised that the Berlin Document Center could not respond to a request for details of a record in respect of the subject without additional information, such as date of birth. As the original complainant subsequently decided not to provide any more information to authorities, this matter could not be pursued.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 57

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 58

This individual was brought to the attention of the Commission by the RCMP, whose source of information was CSIS. The Commission determined that this individual was reputed to have been a Nazi collaborator in a West European country during World War II.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1946. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1952. The Department of External Affairs reported negative search results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the subject died in Canada in 1953. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 59

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a document of unknown origin which listed a number of individuals alleged to have committed war crimes specified in the document. It was alleged that the subject under investigation had participated in punitive expeditions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC, MVB and vital statistics searches against the subject under investigation, and as there was an unsubstantiated allegation that the subject lived in a specific part of Canada, the Commission also checked with local police departments. All results were negative.

The Commission confirmed that the Berlin Document Center had no record in respect of the individual and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, confirmed only that the subject had been named by Mr. Simon Wiesenthal.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 59.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was the Documentation Center (Simon Wiesenthal) in Vienna, Austria. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center, had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 59.2

Opinion is in abeyance pending results of external checks.

CASE NO. 60

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual apart from the citizen's assertion that he was a member of the SS during World War II.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration submitted seven separate landing records on persons with given names similar to the name of the subject under investigation. However, the oldest person would have been only ten years old at the beginning of the war, and it would be therefore almost impossible for this individual to have committed a war crime. All other search responses were negative.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 61

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper publication. It was alleged that this individual had taken an active part in the execution of prisoners of war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The

Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1969. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 62

This individual was brought to the attention of the Commission by the League for Human Rights of B'nai Brith, whose source of information was a private citizen. It was alleged that the subject may have had an SS past.

The Commission requested the departments of Employment and Immigration and the Secretary of State to conduct checks to ascertain when the subject entered Canada and whether he applied for citizenship. The departments reported negative search results.

The Commission interviewed the citizen who submitted the subject's name to B'nai Brith, and determined that he had no additional information relevant to the Commission's inquiries, nor had he any basis for making the allegation.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission confirmed that the subject died in Canada in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 63

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the foreign officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 64

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 64.1

Opinion is in abeyance pending results of external checks.

CASE NO. 65

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was somehow connected as a guard or policeman with the German forces when they entered a specific Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1966. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any further information on the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 66

This individual was brought to the attention of the Commission by the RCMP, whose source was information from the Department of Manpower and Immigration (as it then was). It was alleged that this individual had been responsible for administering the selection of deportees for camps and execution.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported that the subject was mentioned in a publication as being responsible for administering the selection of deportees for camps and execution. The Commission notes that an RCMP check with a foreign authority revealed no record of the subject's name.

The Commission determined that the subject died in Canada in 1976. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 67

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 68

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a request for extradition from an Eastern European country. It was alleged that this individual had been responsible for the murder of hundreds of people.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject. The Commission notes that an RCMP check with a foreign authority revealed no record of the subject's name.

The Commission determined that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 68.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was the Documentation Center (Simon Wiesenthal) in Vienna, Austria. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 69

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no specific suggestion or evidence that the subject was ever involved in war crimes. Rather, he was being investigated by Canadian authorities in response to a request by foreign authorities that he be allowed to immigrate to Canada.

The Commission reviewed material available from the RCMP and from CSIS and determined that the subject abandoned his application for entry in 1955.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission also confirmed that the Berlin Document Center in West Germany had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 70

This individual was brought to the attention of the Commission by the RCMP and B'nai Brith, whose sources of information were two private individuals. It was alleged that the subject under investigation had been a member of the SS and made anti-Semitic remarks.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and identical first name entered Canada in 1980. The Department of the Secretary of State reported that this individual, whose surname by now matched that of the subject under investigation was granted Canadian citizenship in 1980. The Department of External Affairs reported that it had no record in respect of the subject.

Through various investigations the Commission determined that subject was resident in Canada in 1986.

The Commission reviewed the record of the RCMP's interview with its source and also interviewed the individual who submitted the subject's name to B'nai Brith and determined that they had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg,

West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository reported that they had records which indicated that the subject had served in the Waffen-SS, as a member of specified units.

The Berlin Document Center reported that the subject joined the SS in 1941 and provided details of his military record.

The Commission accordingly *RECOMMENDS* that:

1- **A complete history should be compiled of the units in which the subject served from enlistment to the end of the war, to include the activities of those units while he was assigned to them.**

2- **The subject should be summoned for interrogation by appropriate authorities to obtain his explanation of his activities during the war.**

3- **The matter should be re-assessed and a final decision be taken on the basis of the results of those inquiries.**

CASE NO. 71

This individual was brought to the attention of the Commission by the RCMP. This individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. Officials of that country reported that a special court had sentenced this individual to a term of imprisonment for war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by the foreign officials that they had no evidence that the subject had entered Canada.

The Commission confirmed that both the Berlin Document Center and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject. However, neither record contained any information to indicate that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 72

This individual was brought to the attention of the Commission by numerous sources including the RCMP, whose source of information was a letter addressed to the Department of the Solicitor General from Mr. Simon Wiesenthal. Mr. Wiesenthal alleged that this individual was a member of a paramilitary fascist organization, had lived in a West European country during the war and was thereafter resident at a specified address in Canada. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the Subject was granted Canadian citizenship in 1962. The Department of external Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

The Commission received information that the subject may have been tried and sentenced by a military tribunal in an Eastern European country early in the war.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. For the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc**

government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 73

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman made no particular allegation against the subject, but referred to information obtained from a particular individual as the source of the subject's name. Mr. Littman further indicated that the subject resided at an unspecified address in Canada and had been the object of an extradition request by the government of an Eastern European country. No particulars of this alleged extradition request were provided.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship, or a passport. The results of these checks were negative. Further checks conducted against police and motor vehicle registration records were also negative. The Commission confirmed that an extradition request had not been received by the Canadian government and that the Berlin Document Center had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 74

Name stricken off Master List.

CASE NO. 75

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence specified the subject resided at an address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative, except for one immigrant to Canada who fought as a Canadian soldier during the war.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results. It requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 76

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter. It was alleged that the subject under investigation was a war criminal in an Eastern European country in 1941-1945.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject requested a certificate of identity and applied for a Canadian passport.

The Commission conducted an MVB search against the subject. The MVB search produced positive results and the Commission has determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be reassessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 77

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 77.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose sources of information were certain newspaper publications. It was alleged that this individual had participated in the shooting of more than 500 persons in a particular death camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission was advised that a person with a similar name was residing in Canada in 1986. Further investigation has however shown that this individual is not the subject under investigation.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 78

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Furthermore, a foreign publication indicates the subject died in Western Europe in 1972.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 79

This individual was brought to the attention of the Commission by numerous sources, including the RCMP. It was alleged that this individual had been a member of a certain police force and had participated in extermination operations.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an immigrant with a similar name entered Canada in 1953. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1964. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches. The CPIC search response was positive for the immigrant, while the MVB search produced negative results.

The Commission determined that the immigrant died in Canada in 1981. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 80

This individual was brought to the attention of the Commission by the RCMP, in the course of an internal review of its former security service files. It was alleged that the subject under investigation had been a member of a fascist paramilitary organization.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

In addition, in 1985 the Commission wrote to the Centre de documentation juive contemporaine in Paris requesting any information that the centre had on the activities of that fascist paramilitary organization in general and on a number of named individuals, including the subject under investigation. There was no response to that letter.

The Commission confirmed that the Berlin Document Center had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 81

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was responsible for the death of Jews in an Eastern European country. Mr. Littman also indicated that the subject resided at a specific address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1947. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1958. The Department of External Affairs reported that it had no record of the subject.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the individual, whose name is similar to the subject's, was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in that country, the file should be closed.**
2. **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres in that country, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 82

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority. It was alleged that the subject under investigation had been accused of activities in an Eastern European country while being a member of a paramilitary organization. The information did not contain any evidence in support of this allegation, and its concern was directed to the activities of the subject and others in the U.S. and Canada after the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

The Commission conducted an MVB search against the subject which produced positive results. The Commission has determined the subject to be resident in Canada in 1986.

In addition, in 1985 the Commission wrote to the Centre de documentation juive contemporaine in Paris requesting any information that the centre had on the activities of a certain fascist paramilitary organization and on a number of named individuals, including the subject under investigation. There was no response to that letter.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 83

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 84

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 85

This individual was brought to the attention of the Commission by Mr. David Matas, Mr. Ephraim Zuroff from Israel and the Simon Wiesenthal Center in

Los Angeles, California. It was alleged that this individual served with the Gestapo in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The Department of External Affairs reported that the Canadian citizen was subsequently granted a passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany that it had a record of a person with a similar name to the subject under investigation, which stated that the individual was a member of the Security Police in an Eastern European country. According to a witness, this person is alleged to have participated in executions.

The Commission was advised by a foreign authority that the subject has now become a naturalized citizen in another country. Also, a reliable source confirmed that the subject is presently residing in that other country.

For this last reason, it is recommended that the file on the subject be closed.

CASE NO. 86

This individual was brought to the attention of the Commission by Mr. David Matas, Mr. Ephraim Zuroff from Israel and the Simon Wiesenthal Center in Los Angeles, California. It was alleged that this individual had participated in the murder of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. All other search responses were negative.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1981. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 87

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 88

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Sol Littman. It was alleged that the subject under investigation had been a member of a certain fascist paramilitary organization.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of the report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 89

Name stricken off Master List.

CASE NO. 90

Name stricken off Master List.

CASE NO. 90.1

This individual was brought to the attention of the Commission by a private citizen. It was alleged that a certain publication described the subject as having collaborated with the Germans in locating Jews, confiscating their property and deporting them.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Commission has certain information which indicates that the subject entered Canada in 1949. It has not yet received an official reply from these departments.

The Commission conducted CPIC, MVB and other searches against the subject, and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Commission, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former

German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Commission has been unable thus far to procure a copy of the foreign publication which is alleged to describe the subject's activities. It has, however, found mention of a person with the same surname as the subject in another publication on the holocaust. Names of potential witnesses are available from the text, but the Commission has not had sufficient time to complete its investigation to determine whether the person described in the book is the subject, whether the witnesses are still alive, where they are located and whether their testimony is of any value.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Also, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **The Government of Canada should pursue the inquiries which the Commission has started or has indicated in its report. They cannot however be effectively pursued without the cooperation of the government of the relevant Eastern European country.**

2- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant government or to the appropriate archival centres, then there remains no other alternative but to close the file.**

3- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 91

This individual was brought to the attention of the Commission by a private citizen. It was alleged that this individual was a war criminal from the Eastern Bloc who entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 92

This individual was brought to the attention of the Commission by the League for Human Rights, B'nai Brith, whose source of information was a private individual. It was alleged that the subject under investigation had participated in rounding up Jews during the German occupation of the Eastern Bloc and that he was in the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and a similar first name entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the individual who entered Canada. Both responses were negative. Further searches revealed that this individual was resident in Canada in 1986. It is to be noted that the information obtained by the Commission indicates that this individual was born in 1930 and would therefore have been between 9 and 15 years of age during the war. It is reasonable to assume therefore, either that the individual who entered Canada is not the subject under investigation or that he gave an incorrect date of birth.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 93

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Furthermore, a certain publication indicates that the subject died in another country in 1981.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 94

This individual was brought to the attention of the Commission by numerous sources, including correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had certain duties in a prisoner of war camp in an Eastern European country and had thereafter served at specific death camps.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission determined that the subject died in Canada in 1969. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 95

This individual was brought to the attention of the Commission by the RCMP. In anonymous letters, it was alleged that he had co-operated with the SS and killed Jews in an Eastern European country during the war. The letters did not contain sufficient information to enable the Commission to locate and interview their author.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should however the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 96

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter. It alleges that the author's spouse had been shot by the subject, who was an SS helper and a member of the police in the Eastern Bloc at the time. The author maintains the subject killed Jews and others and ordered people to concentration camps.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1969. The Department of the Secretary of State reported that the subject was subsequently granted Canadian citizenship in 1974. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission made every effort to trace the return address of the citizen who submitted the subject's name without success.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 97

This individual was brought to the attention of the Commission by the RCMP and the Canadian Security Intelligence Service (CSIS). In anonymous letters, it was alleged that he had co-operated with the SS and killed Jews in an Eastern European country during the war. The letters did not contain sufficient information to enable the Commission to locate and interview their author.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1975. The departments of the Secretary of State and External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not enquire from the authorities of the Eastern European country whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the government of the relevant Eastern European country or to the appropriate archival centres, the file ought to be closed.**

2- **Should however the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 98

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that this individual was a member of a police force in the Eastern Bloc and had killed a civilian.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative of the subject and alias names. However, the Department of Employment and Immigration reported that a person with a similar name entered Canada in 1951. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1970. The Department of External Affairs reported negative search results against the immigrant/citizen.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record of the subject or the immigrant/citizen.

The Commission determined that the immigrant/citizen died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 99

This individual was brought to the attention of the Commission by the RCMP, who opened a file upon a request from the Department of Employment and

Immigration. It was alleged that this individual was active in a local government in an Eastern European country during World War II.

The Commission requested the Departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no further information than that already known to the Commission.

The Commission was also advised by the authorities of another country that the subject died in that country in 1965.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 100

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 101

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 102

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 103

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. It was alleged that the subject under investigation had been a war criminal from a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission received negative search results in respect of citizenship and passport. The Department of Employment and Immigration reported that the subject entered Canada in 1946, had subsequently been ordered deported and, during the course of litigation that ensued, had voluntarily left.

Newspaper reports indicate that the subject died in another country in 1972, although the report from the Department of Employment and Immigration indicates that the Department believed that he had died in a different country in that year.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 104

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a guard at a certain concentration camp but did not allege that the subject ever entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

In addition, the subject was extradited from one country to another for alleged war crimes. The extradition proceedings and the trial in that country have been fully publicized and confirm that the subject is not in Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 105

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 106

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 107

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 108

Name stricken off Master List.

CASE NO. 109

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had been in the SS. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record in respect of the subject.

The Commission was advised by the Berlin Document Center that it had a record of a person with a similar name but with a different date of birth which confirmed his membership in the SS. His name also appears on a list which was prepared by the liaison staff of a concentration camp. This list indicates the names of SS soldiers (and not prisoners) who were sent to a certain concentration camp.

The Commission was also advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had material from the Berlin Document Center which indicated that the subject was released as a prisoner of war from East Bloc captivity. The agency also provided information with respect to a person with a similar name as subject (no date or place of birth given) who was transferred from one concentration camp to another. It is most probable that this individual is the same as the SS soldier already referred to in the previous paragraph.

In 1985, the Commission wrote to the Yad Vashem archives and stated that it had located the subject in Canada. In early 1986, the Commission was informed that the police of a foreign country will provide the necessary information in respect to the subject. The Commission subsequently received documentation from that police force which confirmed the above information only in respect to the individual who was an SS soldier transferred to a certain concentration camp. No information was provided with respect to the subject under investigation.

On the basis of the foregoing, there is *prima facie* evidence against the person with a similar name as the subject who was an SS soldier at the specific concentration camp. However, there is no evidence of participation in or knowledge of specific war crimes in respect to the subject under investigation. Without such evidence no *prima facie* case can be made against the latter.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 110

This individual was brought to the attention of the Commission by the B'nai B'rith, whose source of information was a private individual. It was alleged that the subject under investigation claimed to have power of life and death over Jewish prisoners of war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 111

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was in the Wehrmacht and stationed in the Eastern Bloc during World War II. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State

reported that the subject was granted Canadian citizenship in 1975. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission tried to contact the citizen who submitted the subject's name to the Canadian Jewish Congress, but to no avail.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his date and place of birth. He emigrated to a West European country and became a citizen of that country, together with his family.

The Commission was also advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

Due to the lack of any evidence relative to war crimes, it is recommended that the file on the subject be closed.

CASE NO. 112

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by foreign authorities. It was alleged that this individual had participated in the shooting of Eastern Bloc civilians during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission contacted Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission confirmed that the Berlin Document Center reported it needed more details to complete its name search, and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no information other than that already known to the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 113

Opinion is in abeyance pending results of external checks.

CASE NO. 114

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 115

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 116

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by foreign authorities. It was alleged that this individual had participated in the shooting of Eastern Bloc civilians during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission contacted officials of the relevant Eastern Bloc country and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 117

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 118

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority. It was alleged that this individual was a member of an Eastern European military group convicted for crimes against the Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

The Commission was also advised by the foreign authority that the subject is now living in another country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 118.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a publication. It was alleged that this individual, as a civic authority in Eastern Europe, had helped send people to labour camps.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 119

This individual was brought to the attention of the Commission by Mr. Sol Littman and the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual worked for the Gestapo and the counter-intelligence of an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. All other search responses were negative.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 120

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject had murdered Jews in an Eastern European country. There was no specific evidence of war crimes other than a certain article in an Eastern European publication. Mr. Littman indicated that the subject resided at a specified address in Canada, but was unable to provide any information concerning the subject's place and date of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1947. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1953. The Department of External Affairs reported that this individual had obtained a Canadian passport.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in that country, the file should be closed.**

2. **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres in that country, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 121

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Department of the Solicitor General which, in turn, had received information from a private citizen. It was alleged that this individual may have been a doctor who experimented on concentration camp prisoners.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports on four occasions.

The Commission conducted an MVB search against the subject with positive results. The Commission determined the subject to be residing in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Solicitor General's Office and determined that she had no additional information relevant to the Commission's inquiries. The interview also established that the complainant was not in a position to place the subject in a Nazi war camp nor was she in possession of names of witnesses able to connect the subject with wartime criminal activities.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Wehrmacht is available. Without such evidence, mere membership in the Wehrmacht is insufficient to establish a *prima facie* case for the Commission's purposes. Also, the subject would have been only 15 to 20 years old during the war, hardly an age to have the position suggested by the source.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 122

This individual was brought to the attention of the Commission by an anonymous note. The only allegation initially made was that the subject was a war criminal and was living at a certain address in Canada.

The Commission investigated the information and is satisfied that the subject is resident at the Canadian address indicated by the source. However, the evidence also indicates the individual has lived all his life in Canada and was drafted into the Canadian army for a short time in 1942.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 123

This individual was brought to the attention of the Commission by the RCMP, which opened a file upon request from a foreign authority which needed assistance regarding the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that it had no record in respect of the subject. The Department of External Affairs reported that the subject was subsequently granted a certificate of identity.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission was also advised by the relevant foreign authority that the subject is now living in another country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 124

This individual was brought to the attention of the Commission by the Department of Justice, whose source of information was the Eastern Bloc. No specific war crimes were alleged against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 125

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was active in the government of an occupied Eastern European country. Mr. Littman also indicated that the subject was dead, although no particulars were provided. Mr. Littman did not allege that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission has also confirmed that the subject died in a West European country in 1974. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 126

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 127

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 128

This individual was brought to the attention of the Commission by the Department of Justice and the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual was a member of the police of an Eastern European country who participated in the shooting of 2000 civilians, more particularly Jewish families in that country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject whose name appears in a specific report from an Eastern European country.

In spite of the above information, it is recommended that the file on the subject be closed, since he never entered Canada.

CASE NO. 129

This individual was brought to the attention of the Commission by the RCMP as a result of circumstances during which the individual himself sought the help of RCMP regarding certain criminal activity directed at him.

The Commission reviewed material available from the RCMP to determine whether it gave any evidence that the subject had committed a war crime. These checks were negative.

The Commission also checked with the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist

Crimes in Ludwigsburg, West Germany, the German Military Service Office (WASt) in Berlin and the Berlin Sick Book Depository, to ascertain whether they had any evidence of possible Nazi war crime activities.

The latter two have records indicating the subject became involved with the air force in 1943. He was captured in 1945 and held in hospital and in the custody of a foreign country for two years. No records indicate evidence of involvement in Nazi war crimes. Rather, the subject spent the war years, once he was of an age to be recruited, in the service of an airborne regiment of the army.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 130

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain publication. It was alleged that this individual had participated in an extermination operation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported negative search results.

The Commission conducted a CPIC search against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the subject died in Canada in 1975. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 131

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was a member of the SS. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1971. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1977. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of a person with a similar name but with a different date of birth, which indicated that he had taken certain training.

Due to lack of any evidence relative to war crimes, it is recommended that the file on the subject be closed.

CASE NO. 131.1

Opinion is in abeyance pending results of external checks.

CASE NO. 132

This individual was brought to the attention of the Commission by the RCMP. The individual's name was submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC searches. All search responses were negative.

The Commission was advised by the foreign officials that they had no evidence that the subject had entered Canada.

At the same time, the Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 133

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Sol Littman. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. These investigations revealed that the subject was born in 1933 and would therefore have been between 6 and 12 years of age during the war.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 134

This individual was brought to the attention of the Commission by various private individuals, whose sources of information were unspecified. It was alleged that this individual had been involved in killings of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1983. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 135

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 136

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), which made no specific allegation. There was no specific allegation or evidence that the subject was ever a war criminal, or that he ever resided in Canada. Rather, he was born in a foreign country and was under investigation with respect to prospective employment with an international body. The Commission reviewed material available from the RCMP and from CSIS to determine whether they had any evidence that the subject had at any time entered Canada, apart from a short visit to a Canadian city. All these checks were negative.

The Commission also confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 137

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a publication. There was no specific allegation of involvement in war crimes made against this subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported entries for two persons with a similar name. One can be eliminated because of his young age; the other entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 138

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 139

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was the American Jewish Committee.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results. However, further investigations of the alleged residence confirmed that the subject resides in Canada in 1986. It is likely he was born in Canada and for that reason the above-named checks were negative.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 140

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so. Further investigation revealed that the individual died in another country in 1984.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 141

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so. Further investigation revealed that the individual died in a West European country in 1954.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 142

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In

addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 143

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). The only allegation initially made was that the subject was a foreign citizen who sought to defect to Canada in 1957. A review of the CSIS files indicates the subject was allowed to defect to Canada, and that he still resides here.

The Commission reviewed other material available from the CSIS file to determine whether there was any evidence that the subject had committed a war crime. This check was negative. The Commission also checked with the Berlin Document Center, and was advised they had no record in respect of the subject. The date of birth makes involvement in war crimes unlikely in any case.

On the basis of the foregoing, it is recommended that the file on this subject be closed.

CASE NO. 144

Name stricken off Master List.

CASE NO. 145

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 146

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it

conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 147

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a newspaper article. There was no specific allegation of involvement in war crimes made against this individual. Mr. Littman advised that this individual was reported to be resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches against the subject. All search responses were negative.

The Commission's efforts to locate the subject at the address specified by Mr. Littman met with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 148

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper article. It was alleged that the subject took part in shooting thousands of Eastern Bloc civilians in Eastern Europe in 1942.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission determined that neither the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Berlin Document Center reported, however, that its records indicate that the subject served as a low-ranking officer with the SS from 1941. He worked as a translator.

A West European Public Prosecutor's Office reported that it had carried out extensive investigations all over the world with regard to a specific incident in which the subject is alleged to have been involved. Investigations included procuring the subject's evidence both as a witness to one incident, and as an alleged perpetrator of another incident involving the shooting of two men. The subject's statement indicated that he could not remember either incident, and he denied that he would ever have been called upon to shoot anyone. He ran errands and worked as an interpreter in an administrative office. The relevant Public Prosecutor's Office discontinued its investigation for numerous reasons, but generally for lack of evidence.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres with regard to either allegation, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 149

This individual was brought to the attention of the Commission by the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual, as a member of a local militia during the Nazi occupation of the Eastern Bloc, had participated in the killing of Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 150

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a publication of Mr. Simon Wiesenthal. It was alleged that this individual had been involved in killing members of the resistance in an Eastern Bloc country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship or a passport. All departments reported negative search results.

The Commission interviewed Mr. Littman and was advised that the subject was not in Canada.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 151

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a specific publication which alleged that this individual had attended an SS school.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission interviewed Mr. Littman and was advised that the subject was in another country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 152

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a member of a specific unit. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 153

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was the Documentation Center in Vienna, Austria. It was alleged that this individual was a suspected war criminal from an Eastern European country linked with a neo-Nazi group in Canada. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed;**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 153.1

Opinion is in abeyance pending results of external checks.

CASE NO. 153.2

Opinion is in abeyance pending results of external checks.

CASE NO. 154

This individual was brought to the attention of the Commission by a private citizen. It was alleged that the subject had said it was not safe for him to return to his German homeland.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1928. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1934. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted investigations and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name and determined that she had no additional information relevant to the Commission's inquiries. Further, she admitted the third person who had told her of the subject was a little senile.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

Thus, overseas checks as well as local investigations by the Commission produced no evidence of the subject ever having returned to Europe during the war years.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 155

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Ministry of Justice of a West European country. It was alleged that this individual had committed war crimes as a member of a Wehrmacht unit stationed in a West European country, and that he may have come to Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results, but for one individual with the same surname, who immigrated in 1948. He is not the subject however, because he has different given names, a different date and place of birth, and other evidence available indicates that the subject resides in a West European country.

The Commission contacted the relevant foreign authorities and found they had no further information or interest in pursuing the subject.

The Commission checked the subject's name with UNWCC files and found a file on the subject restating in greater detail the allegations of the West European country and containing evidence which helped to rule out the immigrant to Canada as being the subject.

The Commission confirmed that neither the Berlin Document Center, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject, beyond the information provided by the West European country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 155.1

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), whose source of information was a private citizen. It was alleged that this individual had been an SS corporal in Eastern Europe. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission interviewed the source who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 156

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged only that the subject had been a "propagandist for the party." When contacted by the Commission, Mr. Littman indicated that he had no further evidence or information.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1954. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1959. The Department of External Affairs reported that the individual had obtained a Canadian passport.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 157

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an article in a newspaper publication. It was alleged that the subject took part in shooting 600 Jews in a Nazi-occupied Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The Department of the Secretary of State

reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that there was no record of the subject being granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission reviewed materials available from RCMP files and determined that the subject had admitted to having served as a sergeant in the army of the relevant Eastern European country in the district indicated by the newspaper article.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Checks with West European sources lead to no documentary evidence. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc country's authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 158

This individual was brought to the attention of the Commission by a private citizen. The only allegation initially made was that the subject was a war criminal because he was so wealthy and of German background.

The Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject and determined the subject to be resident in Canada in 1986.

The Commission reviewed material available from the RCMP to determine whether they had any evidence that the subject had committed a war crime. This check was negative. It also interviewed the citizen who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

The Commission also confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject. It reviewed materials received from the Berlin Document Center comprising the subject's registration forms as an ethnic German. They confirmed the subject's rather recent date of birth, but indicated no evidence or reason to suspect that the subject had committed any war crimes.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 159

This individual was brought to the attention of the Commission by numerous sources, including the RCMP and Mr. Sol Littman. It was alleged that this individual was a member of an extermination group which committed mass murders in countries of the Eastern Bloc.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1963. The Department of External Affairs reported that the subject had subsequently been granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission's inquiries indicated that the subject returned to Eastern Europe and was arrested, tried and sentenced to death for war crimes.

Although the subject's death penalty was commuted, he reportedly died in a prison of Eastern Europe in 1977.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 160

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual had participated in the execution of civilians in a certain number of towns in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 161

Name stricken off Master List.

CASE NO. 162

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. Apart from the fact that he may be a neo-Nazi, there was no specific allegation or evidence that the subject had been involved in war crimes.

After studying the RCMP file, the Commission determined that the subject entered Canada in 1949 and that he was granted Canadian citizenship in 1956.

No checks were conducted at the Department of of External Affairs in respect to passports. The subject, located by the RCMP, was living in Canada in 1983.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin had any record in respect of the subject.

The Commission was advised by the Berlin Document Center that it had a record of a person with an identical name *but* with a different date and place of birth, who served in a Waffen-SS Division in Eastern Europe.

The Commission was also advised by the Berlin Sick Book Depository that it had a record of a person having the same name as the individual already referred to in the previous paragraph, which confirmed his membership in the Waffen-SS.

The subject under investigation was born on a different date than the other individual with the same name who was a former member of a military organization in Eastern Europe. There is approximately a difference of 9 years between the latter and the subject. Also, their respective places of birth are not the same.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Estern Bloc country's authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc country's government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 163

This individual was brought to the attention of the Commission by a private individual. The only allegation initially made was that the subject was a member of the SS and that he had been involved in a special mission in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs, to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on six occasions. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

The Commission also checked with the Berlin Document Center and the CROWCASS List and found that there was no evidence that the subject's activities constituted any war crimes. The relevant program was a propaganda, rather than an action, program. The subject was an academic.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 164

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Department of the Solicitor General which, in turn, received the information from a private citizen. It was alleged that this individual was personally responsible for sending a great number of Jews and other minorities into gas chambers in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. A replacement certificate was issued in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission contacted the citizen who submitted the subject's name to the Department of the Solicitor General and was informed that he never submitted the above allegation of the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-

Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository that they had a record of the subject which indicated his membership in the Wehrmacht (regular army).

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities or the police of another relevant foreign country whether they might possess some evidence of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government, to the police of the other relevant foreign country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, to the police of the other relevant foreign country or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 165

Opinion is in abeyance pending results of external checks.

CASE NO. 166

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no evidence, or specific allegation, of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 167

Name stricken off Master List.

CASE NO. 168

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the relevant officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was informed by the Berlin Document Center that it needed more details to complete its name search. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 169

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had committed crimes in an Eastern and a West European country during World War II. Apart from the foregoing, there was no specific allegation, or evidence, that the subject had been involved in war crimes.

After studying the RCMP file, the Commission determined that the subject entered Canada in 1956. This individual was granted Canadian citizenship in 1962 and a Canadian passport subsequently.

The subject, located by the RCMP, was living in Canada in 1978.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, and the Berlin Sick Book Depository that it had a record of the subject which indicated his membership in the Luftwaffe (air force).

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 170

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

The Commission interviewed the individual who submitted the subject's name to B'nai Brith, who provided certain hearsay information.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Berlin Document Center, and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, provided specific information about the subject's pre-wartime and wartime military activities.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations against the subject.

Futhermore, time constraints did not permit the Commission to take various other steps which are indicated by the information already at hand.

The Commission accordingly *RECOMMENDS* that:

1- The subject should be summoned for interrogation by the appropriate authorities.

2- Historical research should be conducted into the activities of the companies to which the subject was attached throughout the war.

3- The Canadian government should inquire from the relevant Eastern Bloc authorities whether they possess any evidence in support of the allegations against the subject.

4- Depending upon the results brought about by those various steps, the file should be re-assessed and a decision taken on the procedures to be initiated, if any, against the subject.

CASE NO. 171

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Department of Justice and the Canadian Jewish Congress, whose source of information was the Jewish Documentation Centre in Vienna. There was no specific allegation of involvement in war crimes made against this individual, apart from the allegation that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1972. The Department of External Affairs reported that the subject was granted a certificate of identity in 1963.

The Commission reviewed material available from the RCMP and determined that it would be impossible for the individual who landed in Canada to have committed a war crime. According to the year of birth, this person would have been only five or six years old at the end of World War II.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 172

Name stricken off Master List.

CASE NO. 173

This individual was brought to the attention of the Commission by the RCMP, whose source of information was certain foreign newspaper publications. It was alleged that this individual was associated with the Gestapo and specified Eastern European "storm troops".

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 174

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person with a similar name, but with a different date and place of birth, entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The response from the Department of External Affairs was negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that the subject was killed in action during the war. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had the same information as above in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 175

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 175.1

Opinion is in abeyance pending results of external checks.

CASE NO. 176

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was Mr. Simon Wiesenthal and the Documentation Center in Vienna, Austria. It was alleged that this individual was a suspected Eastern Bloc war criminal linked with neo-Nazi activities in Canada. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed;**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 176.1

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. It was alleged that the source had overheard the subject under investigation admit to his wife that he had been a member of the SS and "had killed many men".

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1967. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. The CPIC response indicated that the subject had been charged with three offences not relevant to the Commission's investigation. The first charge was dismissed, the second charge withdrawn and the third charge is pending. The MVB search indicated that the subject was resident in Canada in 1986.

The Commission interviewed the individual who submitted the subject's name to the Canadian Jewish Congress, and determined that she had no additional information relevant to the Commission's inquiries.

The allegations against the subject under investigation were brought to the Commission's attention in mid-1986. In view of the time required to conduct the necessary local checks to ascertain that the subject was indeed resident in Canada and had entered the country after the war, there was insufficient time remaining in the Commission's mandate to conduct any foreign checks.

Accordingly, the Commission *RECOMMENDS* that:

1- **All foreign checks should be conducted on the subject.**

2- The matter should be re-assessed upon receipt of the results of such checks.

CASE NO. 177

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of unknown origin provided by the Canadian Jewish Congress. It was alleged that as a policeman in Eastern Europe, this individual participated in executions and murder. In addition, the Canadian Security Intelligence Service (CSIS) brought to the attention of the Commission an individual with a similar name who was resident in Canada in 1971.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches against the subject. All search responses were negative.

Inquiries conducted by the Commission in an effort to locate the subject in Canada met with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 178

This individual was brought to the attention of the Commission by the RCMP. This individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. It was alleged that this individual had been an offender in that country during World War II. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The search responses received from all departments were negative.

The Commission was advised by West European officials that they had no evidence that the subject had entered Canada.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 179

This individual was brought to the attention of the Commission by an anonymous letter. The only allegation initially made was that the subject was the owner of a shop who behaved curiously regarding the sources of the store's goods.

The subject is the spouse of the individual who is reported on in Case No. 180. Both were denounced in the same anonymous letter.

The Commission followed up information from the source and from the Department of Employment and Immigration and determined that the subject is presently resident in Canada. The Department of Employment and Immigration also reported that the subject entered Canada in 1951.

The Commission checked the shop itself and concluded that the complaint is entirely spurious and unfounded.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 180

This individual was brought to the attention of the Commission by an anonymous letter. The only allegation intitially made was that the subject was the owner of a shop who behaved curiously regarding the sources of the store's goods.

The Commission requested the departments of Employment and Immigration and the Secretary of State to conduct checks to ascertain when the subject had entered Canada and whether the subject had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958.

At the same time the Commission confirmed that the Berlin Document Center in West Germany had no record in respect of the subject.

The Commission also checked the shop itself and concluded that the complaint is entirely spurious and unfounded.

Finally, the Commission determined that the subject died in Canada in 1977. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 181

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 182

Opinion is in abeyance pending results of external checks.

CASE NO. 183

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 184

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 184.1

Opinion is in abeyance pending results of external checks.

CASE NO. 185

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 186

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had admitted in the course of a treatment of the source that he had been a doctor in a Nazi war camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported the subject entered Canada in 1972. The Department of the Secretary of State provided an almost indecipherable record of correspondence which appears to indicate that the subject was attempting at a certain time to have his Canadian citizenship reinstated. The Department of External Affairs reported that it had no record of the subject.

Subsequent discussions with the Department of the Secretary of State revealed information surrounding the subject's citizenship status, which had been straightened out.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that the subject was resident in Canada in 1986. Further investigations revealed no evidence that the subject was a medical doctor, indeed it would not be reasonable to believe that an individual born in 1928 could have been a doctor between 1939 and 1945.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 187

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 188

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 189

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority. At the time of reporting the subject to the RCMP, the foreign authority believed that he was permanently resident in another country. It was alleged that the subject under investigation had been a member of the Hitler Youth, the SA and the SS. It was further alleged that he served in the Reich Labour Service and the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, advised only that the Berlin Document Center had a record of the subject.

The Berlin Document Center confirmed that the subject had been a member of the Hitler Youth, the Nazi SA and the SS. He fled to Germany in 1933 and lived in a specified complex from 1933 to 1938. He served in the Reich Labour Service between 1938 and 1943 and in the Waffen-SS from 1943 to 1945.

The Commission checked with the United Nations War Crimes Commission and determined that the relevant Eastern Bloc government alleged that an individual with the same surname but no recorded first name was sought as being guilty of torture of civilians, ill-treatment and activities at a specified camp. Sufficient information is not available to connect the suspect directly with this particular charge.

It is clear, however, that the subject was an active supporter of national socialism and was involved in various Nazi organizations for over a decade. Although there is no evidence of war crimes on the face of the available reports, the subject's involvement is too prolonged and extensive merely to close the file.

The Commission accordingly *RECOMMENDS* that:

1. **A complete history should be compiled of the activities of all the organizations to which the subject belonged while he was a member of such organizations.**

2. **The subject should be summoned for interrogation by the appropriate authorities to determine what his actual job functions were in the various positions he held from 1933 to 1945.**

3. **The matter should be re-assessed and a final decision taken on the basis of the results of those inquiries.**

CASE NO. 190

This family's surname was brought to the attention of the Commission by Mr. David Matas, whose source of information was an anonymous letter claiming the family came from a foreign country and deserved investigation because they were "recluses". There was no specific allegation of involvement in war crimes made against this family. Mr. Matas advised that this family was reportedly residing in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether a person with a similar name had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches against the family's surname. All of the above searches produced negative responses.

After a thorough investigation of the address submitted to the Commission and of the family residing there, the Commission found no persons of an age that could conceivably have participated in World War II war crimes. The mother and father were born in 1942 and 1940 respectively, their children obviously some time later, and both sets of grandparents reside in a foreign country and have never entered Canada.

The Commission confirmed that the Berlin Document Center needed more details to complete its name search.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 191

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC, MVB and vital statistics searches. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 192

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 193

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 193.1

This individual was brought to the attention of the Commission by the RCMP, which was acting in response to a warrant of arrest sent by a West European government. The relevant government alleged that this individual had committed gruesome murders at a prison camp, and requested to ascertain whether he entered Canada.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had an extensive record of its investigation in respect of the subject.

The Commission reviewed material available from the RCMP and was able to conclude from recent reports from the departments of Employment and Immigration, the Secretary of State and External Affairs, and from CPIC, MVB and other search results, that this individual never entered Canada or applied for citizenship or a passport.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 194

Opinion is in abeyance pending results of external checks.

CASE NO. 195

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. There was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches against the subject. All search responses were negative.

The Commission confirmed that both the Berlin Document Center and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject. However, neither record contained any information to indicate that the subject had entered Canada.

The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 196

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a certain publication. It was alleged that this individual had been an officer in the SS and a Nazi collaborator in an Eastern European country. Apart from the foregoing, there was no specific allegation, or evidence, that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of an allegation of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should however the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 197

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the foreign officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 198

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was unspecified. There was no specific allegation of involvement in war crimes made against the subject under investigation, other than the general statement that he was believed to be a war criminal living in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

In light of the absence of any allegation by the Canadian Jewish Congress and the absence of any individual complainants, the Commission could not obtain any further information on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 199

Opinion is in abeyance pending results of external checks.

CASE NO. 200

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual and the Canadian Jewish Congress. It was alleged that this individual had been a member of the Nazi Party, possibly profiteered during the war, may have used slave labour and participated in reprisals against an underground movement in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on four occasions.

The Commission conducted CPIC, MVB, Vital Statistics and telephone searches against the subject. All search responses were negative. Through other investigations the Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also checked with the United Nations War Crimes Commission and ascertained that an individual with the same surname, but no recorded first name or date or place of birth was alleged by the Eastern Bloc government to be a political leader wanted for ill-treatment of workers. Ill-treatment consisted of beating and torturing individuals in forced labour camps, employing women in very heavy work or forcing ill and weak workers to continue working. This individual, together with others, also stole food which was intended for the workers.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 201

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 202

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, and the information received was irrational.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported entries for two persons with a similar name. One was eliminated because he was born in a particular foreign country; the other, born in Europe, entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on four occasions.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission contacted the wife of the subject, who stated that she did not know the citizen (who made the allegation) and that her husband never had any business dealings with a person by that name. The Commission also tried to locate the complainant but to no avail.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Berlin Document Center that it needed more details to complete its name search.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against persons having the same surname as the subject. However, the files did not contain sufficient information to permit the Commission to conclude whether or not they related to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 203

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the foreign officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission also checked with the United Nations War Crimes Commission and ascertained that the foreign government alleged that an individual with the same surname but no recorded first name or place or date of birth was suspected of having participated as an SS officer in the murder of a large number of prisoners of war and others in a specified concentration camp.

In the absence of any evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 204

Opinion is in abeyance pending results of external checks.

CASE NO. 205

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. It was alleged that the subject under investigation had been a member of a paramilitary fascist organization and had been sentenced and imprisoned in an Eastern European country during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted Vital Statistics and MVB searches against the subject. Both search responses were negative. Through other investigations the Commission has determined the subject to be resident in Canada in 1986.

The Commission wrote to the Department of External Affairs in 1985 requesting it to obtain any information on the public record in the relevant country of the alleged conviction of the subject under investigation. Despite repeated requests by the Department of External Affairs, at the time of writing there has been no response to that request from the government of that country.

In addition, in 1985 the Commission wrote to the Centre de documentation juive contemporaine in Paris requesting any information that the centre had on the activities of the particular paramilitary organization in general and a number of named individuals, including the subject under investigation. There was no response to that letter.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject (other than the specific request relating to the alleged conviction noted above).

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 206

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State

reported that the subject was granted Canadian citizenship in 1963. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on four accasions.

The Commission interviewed the individual who submitted the subject's name to the B'nai Brith, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record which indicated only that the subject was a member of the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 207

This individual was brought to the attention of the Commission by the RCMP, through a copy of a letter addressed to the Honourable Elmer MacKay, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a former SS officer.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted an MVB search and determined that the subject was resident in Canada in 1986 at the address provided by Mr. Wiesenthal.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any further information on the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 208

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the foreign officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 209

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of unknown origin which consisted of allegations of various war crimes against named individuals, and correspondence addressed to the Department of the Solicitor General from foreign authorities. It was alleged that this individual had killed several civilians in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject, although Ludwigsburg indicated that an individual with a similar surname and year and place of birth was named by Mr. Simon Wiesenthal.

The Commission determined that the subject died in Canada in 1970. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 210

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 211

Name stricken off Master List.

CASE NO. 212

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In

addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 213

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS and in the Wehrmacht.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 214

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 214.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual was a member of the SS in Europe during World War II. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject which indicated his membership in the Waffen-SS. Also, the subject was reported missing in 1945.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against persons with a similar surname as the subject. However, the files did not contain sufficient information to permit the Commission to conclude whether or not they related to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 215

This individual was brought to the attention of the Commission by the RCMP, which was acting on correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname but a slightly different first name entered Canada in 1948. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1960. The Department of External Affairs reported that it had no record of the subject. The information obtained from these sources indicated that the individual who entered Canada was born about one month earlier and in a different part of Eastern Europe than the subject of the complaint.

The Commission conducted CPIC and MVB searches against the subject and the individual who entered Canada. Both search responses were negative. Telephone searches revealed that the individual who entered Canada was residing in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject. The Berlin Document Center advised that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 216

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 217

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual had been an SS officer.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with the same surname but a different first name and different date of birth entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission determined that the person who entered Canada died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 218

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 219

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 220

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject served with a specific police force and participated in executions of the civilian population in 1943-1944. Mr. Littman indicated that the subject's criminal activities had been attested to by witnesses, and that the subject resided at an unspecified address in Canada, but Mr. Littman provided no evidence of war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle records were also negative.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 221

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals, which was submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative, and the Commision was advised by the foreign officials that they had no evidence that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 222

This individual was brought to the attention of the Commission by the RCMP. It was alleged that the subject had been condemned *in absentia* by courts in a certain West European country to a term of imprisonment for acts against that country's interests.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1946. The Department of the Secretary of State advised that the subject was not granted Canadian citizenship. The Department of External Affairs advised that the subject did not obtain a Canadian passport. The Commission has been unable to locate the subject in Canada.

Further investigations by the Commission revealed that the *in abstentia* judgement against the subject was subsequently reversed and that the subject was acquitted of all charges. The Commission obtained a copy of the latter judgement.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 223

This individual was brought to the attention of the Commission by the RCMP, who reported that the subject, a resident of Canada and a Canadian citizen, had received an anonymous letter threatening retribution for unspecified crimes and that the subject's place of business had been vandalized with Nazi symbols. No allegations of war crimes were ever made.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain when the subject had entered Canada and whether the subject had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted citizenship in 1981. The Department of External Affairs reported that the subject had obtained a passport.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also reviewed the United Nations War Crimes Commission file on an individual whose family name is similar to that of the subject. The subject of the UNWCC file was a member of a German Paratrooper Unit stationed in a West European country. Upon consideration, and in light of the negative results to the five checks conducted in German archives, the Commission is of the view that this file probably does not pertain to the subject.

On the basis of the foregoing, no allegation and no evidence of participation in or knowledge of specific war crimes is available. Yet there remains a lingering suspicion that something untoward may have happened, especially since the Commission has no knowledge of the actual activities of the suspect during the war. The suspect himself is the only person who could shed light on that particular period of his life.

The Commission accordingly *RECOMMENDS* that:

1- **The suspect should be summoned by the appropriate authorities for interrogation on his wartime activities.**

2- **Depending upon the results of such interrogation, the file should be re-assessed and a decision taken as to the opportunity of further inquiries.**

CASE NO. 224

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 225

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle records and investigations by the Commission staff revealed that the subject was a resident of Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purpose, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 226

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Galicia Division of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The

Department of Employment and Immigration advised that the subject entered Canada in 1957. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1962. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission was advised by the Berlin Document Center and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) that their records on the subject confirm only that he may have been a member of the Waffen-SS.

The Commission has also confirmed that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 226.1

Opinion is in abeyance pending results of external checks.

CASE NO. 227

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. In addition, as the Commission had been provided with a possible address in Canada, it conducted motor vehicle, CPIC, vital statistics, credit, telephone and street directory checks. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS, which was preceded by membership in an Eastern Bloc army.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 228

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject committed war crimes as a member of a police battalion in an Eastern European country and was promoted to an officer post in the German Army. Mr. Littman provided no evidence in support of these allegations but indicated that the subject was a resident of Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records and at the address provided by Mr. Littman were also negative.

The Commission also confirmed that the Berlin Document Center has no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 229

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that the subject had been a member of the SS but no specific allegation of war crimes was made. The source of the allegation provided particulars of the subject's place and date of birth, as well as a current address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to determine when the subject had entered Canada, and whether the subject had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg,

the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 230

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual had participated in punitive expeditions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 231

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual had participated in punitive expeditions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central

Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 232

This individual was brought to the attention of the Commission by the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual had participated in punitive expeditions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative results.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 233

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 234

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 234.1

This individual was brought to the attention of the Commission by the Canadian Holocaust Remembrance Association, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted an MVB search and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Holocaust Remembrance Association and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 235

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no specific suggestion or evidence that the subject was ever involved in war crimes. Rather, he was being investigated by Canadian authorities in response to a request by foreign authorities that he be allowed to immigrate to Canada.

The Commission reviewed material available from the RCMP and from CSIS and determined that the subject abandoned his application for entry in 1955.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada at anytime since 1955. These departments reported negative search results.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 236

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals submitted to the Department of External Affairs by the Ministry of Justice of a West European country. It was alleged that the subject had been an SS officer in that country and had participated in the murder of 80 prisoners of war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1949. The departments of the Secretary of State and External Affairs reported that they had no records on the subject.

The investigation has now revealed that the immigrant and the subject are not one and the same person. Vital data show a clear difference. It thus appears that the subject has never landed in Canada. Furthermore, two judicial inquiries abroad on the subject have been brought to a halt and no charges have ensued.

One of those inquiries was held in a West European country in 1948-1949, after the subject's arrest in that country. The investigation was dropped and the subject was released in 1949.

The other inquiry was held by the Public Prosecutor's Office in a West European country. The subject was interrogated by the relevant authorities in 1960. The Public Prosecutor stopped the proceedings on several grounds.

Nevertheless, the Commission undertook fresh inquiries with the departments of Employment and Immigration, the Secretary of State and External Affairs based on the slightly different spelling of the subject's name found in the Public Prosecutor's file. The results of these additional checks were also negative.

The Commission also reviewed the file of the United Nations War Crimes Commission on the subject. The commission does not know whether this file came to the attention of the relevant Public Prosecutor at the time of the Preliminary Inquiry. In any event, the file contains neither new evidence nor indication that the subject ever entered Canada.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record on the subject.

On the basis of the foregoing, essentially:

a) that the subject never landed in Canada;

b) that the subject has been cleared twice of all charges in the West European countries;

c) that it is highly unlikely that Canada could now find fresh incriminating evidence against the subject, even if he were found in Canada;

the Commission recommends that the file on the subject be closed.

CASE NO. 237

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject executed Jews in an Eastern European country as a member of the SS. The source provided no further evidence of war crimes but referred the Commission to a photograph of the subject in SS uniform which reportedly appeared in a certain newspaper. The source also provided a specific address for the subject which was confirmed by the Commission's staff.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject entered Canada and whether the subject had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1953. The Department of External Affairs reported that the subject had obtained a Canadian passport.

The Commission was advised by the Berlin Document Center that it had no record on the subject.

The Commission also conducted a search of the records compiled by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg. These records indicate that an individual with a name similar to the subject's was a member of a German unit which was stationed in an area where war crimes were allegedly committed. The file indicates that the subject was not personally accused of war crimes, and that a preliminary inquiry commenced by the Public Prosecutor's office of a West European country into the activities of the unit was suspended in 1980. The file does not contain information sufficient to link the individual residing in Canada with the former member of the German unit, whose date of birth is not given.

The Commission also confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

This is clearly a case where further inquiries must be conducted and the subject must be interrogated. Time limits imposed on the Commission have not, however, permitted it to complete those tasks.

The Commission accordingly *RECOMMENDS* that:

1- **Furthe inquiries should be conducted to obtain the date and place of birth of the individual identified as a member of the relevant unit and to determine the status of the West European country's investigation into the activities of that unit.**

2- **The subject should be interrogated by the appropriate authorities.**

3- **The matter should be re-assessed and a final decision taken when the results of those investigations are known.**

CASE NO. 238

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 239

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes, apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was not granted Canadian citizenship. The Department of External Affairs reported that it had no record of the subject.

Further checks with police and motor vehicle registration records and investigations by the Commission's staff failed to locate the subject in 1986.

The Commission was also advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission also confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 240

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1962. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1968. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission contacted a representative of the Canadian Jewish Congress and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Galicia Division of the Waffen-SS.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 241

Name stricken off Master List.

CASE NO. 242

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. However, notwithstanding these negative responses, further investigation revealed that the individual died in

Canada in 1981. A copy of the death certificate has been obtained by the Commission.

The Commission was advised by the Berlin Document Center that it had a record in respect of the subject which confirmed only his membership in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 243

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. It was alleged that this individual was a colonel in a fascist paramilitary organization. The informant probably meant a different particular military group. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject which indicated he was an officer in an Eastern European army. Also, no documentation on service in the Wehrmacht or in the Waffen-SS with regard to the subject could be traced.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 244

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain when the subject had entered Canada and whether the subject had applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle records were also negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 245

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes, apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1960. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1965. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks with police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he was with a specific police force and subsequently, a member of the Galicia Division.

The Commission also confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 245.1

Name stricken off Master List.

CASE NO. 246

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 247

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against the individual.

The Commission requested the departments of Employment and Immigration and the Secretary of State to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship. The Commission also conducted CPIC and MVB searches. The Department of Employment and Immigration submitted seven separate landing records of seven persons with the same surname and similar given names as the subject under investigation. Among the seven entries, one was retained for investigation purposes because the individual's age corresponded with that of a person with the same name living in Canada, as indicated by the source. All other search responses with regard to this individual were negative.

After a thorough investigation, the Commission determined that the individual under investigation and the subject were the same person and that he was residing in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of a person with the same name as the subject, which indicated that he was a pilot in the Allied Air Force and had been taken prisoner by the Germans.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 248

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person with a similar name entered Canada in 1950. Because of his age and place of birth, this individual is not believed to be the subject of our file. The Department of External Affairs reported that another person, having the same name as the subject and born in Canada, was subsequently granted a Canadian passport. The response from the Secretary of State was negative.

The Commission conducted CPIC and MVB searches against the person born in Canada. Though the CPIC search response was negative, the MVB search produced positive results. The Commission received sufficient information to conclude that it is more than likely that the individual born in Canada and the subject under investigation, are the same person. The Commission determined that the latter was residing in Canada in 1986.

The Commission interviewed a representative of the Canadian Jewish Congress, and determined that she had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 249

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that this individual had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The Department of External Affairs reported negative search results.

The Commission was advised by the RCMP that the subject emigrated from Canada to a foreign country in 1963 and was naturalized as a citizen of that country in 1969. The RCMP also advised that the subject was a resident of that foreign country in 1985.

The Commission was advised by Mr. Simon Wiesenthal that he was unable to provide any additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 250

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. However, notwithstanding these negative responses, further investigation has revealed that the individual died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 251

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 252

This individual was brought to the attention of the Commission by the RCMP which was acting on correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that it had no record on the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that subject was resident in Canada in 1986.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record of the subject.

The Commission determined that the Berlin Document Center and the German Military Service Office for notifying the next of kim of members of the former German Wehrmacht (WASt) in Berlin had records of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 252.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain book. It was alleged that this individual had been in an SS unit that killed 45,000 Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 253

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that this individual had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The departments of the Secretary of State and External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results. Inquiries conducted by the Commission were unsuccessful in locating the subject.

The Commission determined that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin had records of the subject. While the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, indicated only that the subject was named on a Wiesenthal list, the Berlin Document Center and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin reported that the subject was a member of the Galicia Division of the Waffen-SS.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division of the Waffen-SS is available against the subject. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 254

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were a certain newspaper publication and a 1967 telegram forwarded to the Department of External Affairs by an Eastern Bloc country. It was alleged that this individual was a Nazi collaborator and a police commissioner in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported positive search results. The Department of

Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on four occasions.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the subject died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 255

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. It was alleged, on the basis of a newspaper article, that the subject under investigation had collaborated with the Germans in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada (the location on the landing record is indecipherable) in 1956. The departments of the Secretary of State and External Affairs reported that they had no record in respect of the subject.

The Commission conducted vital statistics and MVB searches on the subject. Both search responses were negative. Through other investigations the Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 256

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority. It was alleged that, as a member of a specific unit, this individual participated in the persecution and murder of Jews in an Eastern European country, and was also in authority at a concentration camp.

The Commission was advised by the RCMP that the subject had been located in Canada and was arrested by authorities in another country a year later.

The Commission was advised that the subject was currently engaged in certain proceedings brought against him by the government in that other country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had recently entered Canada or applied at any time for citizenship or a passport. All departments reported negative search results in respect of the subject. In addition, the Commission conducted CPIC and MVB searches against the subject with negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 257

This individual was brought to the attention of the Commission by a private individual, whose hearsay information via a newspaper article was that the subject may have some involvement with another individual allegedly involved in the shooting of 1,800 Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC, MVB and several other searches against the subject, but was unable to locate him in Canada.

The Commission interviewed a source related to the newspaper who seemed to indicate that he knew that the subject resides either in Canada or in another country, but he refused to divulge the information.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal

Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission has not pursued all the evidentiary aspects because it remains to be established that the subject is in Canada.

The Commission accordingly *RECOMMENDS* that:

1- Should the subject be located in Canada, historical research should be conducted into the circumstances of the killing of the Jews as reported in this case and the involvement of the subject.

2- Depending on the results from this research, and should the Government of Canada decide to submit the subject's name to the relevant Eastern Bloc government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 258

This individual was brought to the attention of the Commission by private individuals. There was no specific allegation of involvement in war crimes made against this subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname and identical first name entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1955. The Department of External Affairs reported that in 1965, the name of the person who had landed in Canada had been mentioned in a newspaper in connection with the trial of Nazi collaborators. No department had any record of an individual whose name was identical to that of the subject under investigation.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the individual who landed in Canada was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres in that country, the file should be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government, or to the appropriate archival centres in that country, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 259

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1971.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission confirmed that the subject died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 260

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were a newspaper and the subject himself who contacted the RCMP after receiving an anonymous letter. It was alleged that this individual had participated in the killings of foreign civilians in a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The subject entered under a different name, and subsequently admitted this to the RCMP. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject under either his allegedly real name or the name under which he entered Canada.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against this subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant**

Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 260.1

This individual was brought to the attention of the Commission by way of an anonymous letter from a private citizen. It was alleged that the subject joined the SS when the German army captured an Eastern European country in about 1942.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that it had no record of the subject. However, citizenship documents indicate he landed in Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of the subject.

The Commission followed up on information provided in the letter and determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 261

This individual was brought to the attention of the Commission by a private individual. It was alleged that the subject was a war criminal and had entered Canada, but no particulars were provided, nor was any information concerning the subject's place and date of birth given by the source.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1949. The departments of the Secretary of State and External Affairs reported that this individual was not granted Canadian citizenship and did not obtain a Canadian passport.

Further checks with police and motor vehicle registration records and investigations by the Commission's staff failed to reveal a current address for the subject or the individual with a similar name.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available, and it could not be established that the subject is residing in Canada.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 262

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman made no specific allegation against the subject and provided no evidence of war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 263

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 264

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 265

Opinion is in abeyance pending results of external checks.

CASE NO. 266

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a report filed by one of its local detachments in a specific province. While there was no specific allegation of involvement in war crimes made against this individual, he was suspected of being a former member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain how the subject had entered Canada, and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1973. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1978. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative, while the MVB search response was positive. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission confirmed that the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin had a record of the subject indicating only that he had served in a specified SS battalion, and had been a prisoner of war in 1946. WASt reported that it had no documentation on the subject's period of service in the SS, and the Commission received no information to support an allegation of war crimes against the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 266.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a request for assistance from a foreign government. It was alleged that the subject under investigation had been a member of the Waffen-SS and was suspected of having committed war crimes.

The foreign government confirmed that the subject had entered that country in 1954 and was resident there.

The Commission confirmed that the subject entered Canada in 1951. However, as the foreign government confirmed that the subject was resident in that country and as no assistance was requested from the Commission, further searches were not undertaken.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 267

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a certain newspaper publication. There was no specific allegation or evidence that this individual had been involved in war crimes.

The RCMP reported the subject to be resident at a specified address in Canada. The Commission confirmed the subject to be resident at the address specified.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 268

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual had committed war crimes against Jewish people in an Eastern European country. It was also alleged that he had been responsible for the death of a private citizen in 1944.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1968. The

Department of External Affairs reported that two persons with a similar name were subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of a person with a similar name but with a different date and place of birth, which indicated he had been a prisoner in a specific concentration camp and its neighbouring camp.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc country's authorities whether they might possess some evidence of war crimes against the subject.

The Commission accordingly RECOMMENDS that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 269

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual is a physician whose physical description resembles that of the notorious war criminal Dr. Mengele.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship. The Commission also conducted CPIC and MVB searches. The Department of External Affairs reported that the subject was subsequently granted Canadian passports on four occasions. According to his passport applications received by the Department of External Affairs, the subject, who was born abroad in 1913, entered Canada in 1954. He was granted Canadian citizenship in 1959. Personal data of the subject taken from various documentation reveal the following in comparison with the information contained in the Commission file with respect to Dr. Mengele:

	Subject	*Dr. Mengele*
Year of Birth	1913	1911
Height	6'3" +	5'8" +
Weight	195-215 lbs	Medium build
Eyes	Blue	Brown
Face	Oval (from Photo)	Round
Chin	—	Round

In addition, the picture of the subject appearing in the various documents received, does not suggest that he resembles Dr. Mengele.

All other search responses were negative. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 270

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had admitted to the complainant that he had been a member of the Gestapo and had personally participated in the Jewish genocide.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1963. The Department of External Affairs reported that it had no record in respect of the subject.

Through various investigations the Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record which confirmed only that the subject was a member of the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 271

This individual was brought to the attention of the Commission by a private individual and by the Simon Wiesenthal Center in California. It was alleged that the subject under investigation had been the head of the police and that he had been active in the murder of 8,000 Jews of an Eastern European country in 1941.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

Although an MVB search against the subject produced negative results, through other investigations, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that the neither Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* THAT:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant**

Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 272

Name stricken off Master List.

CASE NO. 273

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had admitted working in gas chambers that exterminated Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

However, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record which indicated that the subject had been captured when Germany surrendered and had signed prisoner of war forms indicating that he had served in a specific unit, which was formed in 1945. This form indicates that he had been a member of the Hitler Youth from 1941 to 1943, that he joined the Waffen-SS in December 1943 at 17 years of age, and that he was captured in 1945. There is no evidence that the subject was ever a member of a certain unit, to which he probably would have belonged if he ever worked in a death camp; furthermore, there are no records indicating that he ever served as a concentration camp guard.

The Commission also checked with the United Nations War Crimes Commission and ascertained that an individual with a similar surname, but no recorded first name or date or place of birth, was alleged by a West European government to be an SS official involved in a meeting in a West European country in 1944 which allegedly took certain measures against foreign women.

The Commission made numerous attempts to contact the individual who submitted the subject's name to the RCMP but was advised that the complainant wished to remain anonymous and was not prepared to provide any additional information.

The Commission accordingly *RECOMMENDS* that:

1- A complete history should be compiled of the units in which the subject served from enlistment to capture, to include the activities of those units while he was assigned to them. In this regard, all external checks should be conducted again under an alternative spelling of the subject's surname that the Commission's research revealed and which was provided to it on a confidential basis.

2- The subject should be interviewed by the appropriate authorities to obtain his explanation of his activities during the war.

3- The matter should be re-assessed and a final decision taken depending upon the results of those inquiries.

CASE NO. 274

Name stricken off Master List.

CASE NO. 274.1

Opinion is in abeyance pending results of external checks.

CASE NO. 275

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from the foreign officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 276

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 277

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was an anonymous letter. It was alleged that the subject under investigation had been a member of the SS and had participated in the elimination of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1958. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The date and month of birth on the subject's driver's licence differed from those recorded on the landing information. However, when the month was expressed as a number, the date and month on one record was the reverse of the date and month on the other record. The Commission is satisfied that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of the report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 278

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 279

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1966. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the RCMP, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record of the subject which confirmed only his membership in the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 280

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission interviewed the individual who submitted the subject's name to the RCMP and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 281

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), which opened its file on the subject because he was a defector from an Eastern Bloc country who wished to come to Canada. The CSIS investigation monitored his resettlement and his information on military matters. There was no specific allegation of involvement in war crimes made against this individual.

The Commission reviewed material available from the CSIS file and is satisfied that the subject entered Canada. The Department of Employment and Immigration reported that the subject landed in Canada in 1951. CSIS then monitored and assisted his resettlement until 1964.

The Commission's review of material from CSIS indicated that there was no evidence to suspect the subject had committed Nazi war crimes. The Commission also checked with the Berlin Document Center and was advised it had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 282

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 283

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 284

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 285

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 286

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), which opened its file because the subject was a defector from an Eastern Bloc country who wished to come to Canada. The CSIS investigation monitored his resettlement. There was no specific allegation of involvement in war crimes made against this individual.

The Commission reviewed materials available from CSIS files and is satisfied that the subject had entered Canada in 1957. However, information on file indicates he left the country after two years and has not returned since.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had re-entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission reviewed other material available from CSIS and determined that they had no evidence indicating the subject might have committed a war crime.

The Commission also checked with the Berlin Document Center in West Germany and was advised that it had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 286.1

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and by the Canadian Security Intelligence Service (CSIS). It was alleged that the subject was responsible for deporting Jews during the Nazi regime.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that it had no record of the subject.

The Commission reviewed extensive materials available from CSIS files indicating that the subject may have had some involvement in an Eastern Bloc country as alleged, but the investigations had ceased by 1968 and in the interim, the subject has died.

The Commission confirmed that the subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 287

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 288

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of citizens during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and first name entered Canada in 1949. The Department of the Secretary of State reported that this same individual, whose first name was by now anglicized, was granted Canadian citizenship in 1955. The Department of External Affairs reported that this individual was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined that the individual who landed in Canada was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported that the subject had been named in a Wiesenthal List.

The Commission forwarded the subject's name to an Eastern Bloc country in its letter of 1985 and requested that it make available any witnesses or documents relevant to the allegations it had made against the subject. As of the date of writing there has been no response in connection with the subject, although the Eastern Bloc country has provided such information in connection with other individuals under investigation.

On the basis of the foregoing, it is recommended that in the absence of any further response from the Eastern Bloc country the file on the subject be closed.

CASE NO. 289

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 290

This individual was brought to the attention of the Commission by the RCMP, acting on correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and first name and identical date of birth visited Canada in 1980. Terms of entry required this individual to leave Canada by a certain date in 1980. As Canada does not maintain exit control records, there is no evidence that the individual did leave as required. Conversely, there is no record that his country of origin, an Eastern Bloc country, had requested his return. A department official advised that the Eastern Bloc country might not request the return of an individual 65 years of age and over but that it would be most unusual to let any individual visit Canada if there was any suspicion that he was a Nazi war criminal.

The departments of the Secretary of State and External Affairs reported negative search results. The Commission also conducted CPIC and MVB searches, which produced nothing.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of member of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject. The Berlin Document Center and the Central Information Office of the Federal Archives in Aachen-Kornelimünster reported that they had records of the subject under investigation which confirmed only his membership in the Galicia Division of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 291

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that this individual had admitted to the complainant to the Congress that he had been a member of the Nazi Party, had run a concentration camp and had killed many Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the complainant who had submitted the subject's name to the Canadian Jewish Congress. She indicated that she had no recollection of the complaint that she was alleged to have reported to the Congress.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository reported that they had records which confirmed only that the subject was a member of the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 292

This individual was brought to the attention of the Commission by the RCMP, whose source of information was anonymous correspondence forwarded by the Canadian Jewish Congress. It was alleged that this individual had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports, on four occasions.

The Commission conducted CPIC and MVB searches against the subject and determined that the subject is resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin reported that it had a reference to a person with a similar name on a list of a West European country, but could not confirm whether it was the subject, nor was the list of a West European country an SS list.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 293

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a publication of Mr. Simon Wiesenthal. It was alleged that this individual had been responsible for a pogrom against the Jewish inhabitants of an Eastern European country in 1941.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission interviewed Mr. Littman and was advised that the subject was in a West European country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 294

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Sol Littman. It was alleged that this individual, as a member of a specific unit carried out punitive expeditions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had a record in respect of the subject.

The Commission was advised by the the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that the subject was named on the Wiesenthal List.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 295

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record in respect of the subject. The information received from the sources indicated that the subject changed his name after the war and did not return to his place of birth because he feared reprisals against himself or his relatives.

The Commission conducted CPIC and MVB searches on the subject. Both search responses were negative. Further investigations with local police forces revealed that the subject under investigation was resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record in respect of the subject under the name he used throughout the war. The Berlin Document Center and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that they had a record of the subject under the name he used throughout the war, which confirmed only his membership in the Galicia Division of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 296

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that the subject under investigation had been involved in killings of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a somewhat similar surname and similar first name entered Canada in 1948. The Department of the Secretary of State reported that this same individual using a slight variant of his surname was granted Canadian citizenship in 1955. The Department of External Affairs reported that this same individual was subsequently granted Canadian passports. No department had a record that matched the name of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined that the individual who landed in Canada was resident in Canada in 1986 using another variant of his surname. Telephone checks revealed yet another variant of the surname.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of member of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject under the name submitted to the Commission.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant**

Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 297

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 298

Name stricken off Master List.

CASE NO. 299

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and first name and an identical birth date to that provided by Mr. Wiesenthal entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported it had no record of the subject.

The Commission conducted an MVB search and determined the subject to be resident in Canada in 1986 at the address provided by Mr. Wiesenthal.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS and that he was an interpreter in the Wehrmacht.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 300

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a member of a specific group when that body was formed in 1929, but made no specific allegation against the subject and provided no evidence of war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. The Commission has also confirmed that the subject died in a West European country in 1938. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 301

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 302

This individual was brought to the attention of the Commission by the RCMP, whose source of information was articles in certain newspaper publications. It was alleged that this individual had been a police official in an Eastern European country and that he had collaborated with the Nazis.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with the same name but a different date of birth entered Canada in 1948. The Department of the Secretary of State reported that this person was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no relevant records.

The Commission reviewed material available from the RCMP and determined they had no evidence in support of the allegation. It confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission also determined that the person who entered Canada and who may have been the subject, died in Canada in 1972. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 303

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an extensive article in a newspaper publication. Grave allegations were made therein, relating to numerous executions in a town in an Eastern European country. There was a specific suggestion that the individual was resident in Canada.

The Commission reviewed material available from the RCMP to determine if it had any evidence that the subject had at any time entered Canada. The Comission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. As a result, two possibilities surfaced.

Both possibilities were ruled out for several reasons. For example, the person residing in Canada entered in 1926 at the age of 1½ years; the other has a different given name and is not of Eastern European origin.

At the same time, the Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 304

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the

subject entered Canada in 1955. The departments of the Secretary of State and External Affairs reported that they had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 305

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous phone call made to the Canadian Jewish Congress. It was alleged that this individual had bragged of being in the SS during World War II.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted MVB and other searches against the subject and determined the subject to be resident in Canada in 1986.

The Commission reviewed RCMP reports of their interview of the subject during which he admitted having been recruited into a German army regiment which was eventually converted into the Waffen-SS. He denied having committed atrocities. His unit fared badly and in 1945 he deserted. The general conduct of the subject's unit during the war has been historically validated and is somewhat analogous to that of the Galicia Division.

The Commission found that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the SS is available. Without such evidence, and based upon the reasoning set out in chapter I-8 of this Report (see finding no. 59) pertaining to the Galicia Division, membership in the Waffen-SS is insufficient to establish a *prima facie* case for the Commission's purposes.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 306

This individual was brought to the attention of the Commission by a private individual, who was passing along information received from another private individual. The allegation made was that the subject committed crimes against the Jews in an Eastern European country. There was no specific suggestion or evidence that the subject was ever resident in Canada; rather, there was some indication that he lives in a foreign country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

At the same time, the Commission confirmed that the Berlin Document Center in West Germany had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on this subject be closed.

CASE NO. 307

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was Mr. Simon Wiesenthal. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same first name and a slightly different surname entered Canada in 1929. The Department of the Secretary of State reported that this individual, whose surname was by this time identical to that of the individual under investigation, was granted Canadian citizenship in 1951. The Department of External Affairs reported that this same individual was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 308

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1951. The departments of the Secretary of State and External Affairs reported that they had no record of either the subject or the immigrant.

The Commission reviewed materials available from the Berlin Document Center indicating that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any further information on the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report, (see finding no. 59), nor is it at all evident that the immigrant in Canada is indeed the subject.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 309

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 310

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname and identical first name entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that it had no record of the subject.

The Commission was advised by the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, that they had records of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Berlin Sick Book Depository advised that the subject was wounded in action, and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record of the subject.

The Commission determined that the individual who entered Canada died in Canada in 1970. A copy of the death certificate has been obtained by the Commission.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 311

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 312

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 313

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 313.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority and a certain book. It was alleged that this individual had participated in punitive actions in an Eastern European country and that he might have moved to Canada subsequent to being denaturalized in a foreign country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission investigated the alleged Canadian residence and found the person with a similar name living there is not the subject.

In the interim, the Commission confirmed that neither the Berlin Document Center, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 314

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 315

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual was involved in executing civilians while he was assistant police chief in an Eastern Bloc country and later came to be resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. One possibility surfaced. The Department of Employment and Immigration reported that a person with a similar name but a different place of birth entered Canada in 1951.

The Commission confirmed that this immigrant died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 316

This individual was brought to the attention of the Commission by Mr. Sol Littman and the Canadian Jewish Congress. It was alleged that this individual, who was reported to be living in Canada, may have been involved in the evacuation of Jews from an Eastern European country during the war. No additional information with respect to this individual's alleged participation in war crimes was available from either Mr. Littman or the Canadian Jewish Congress.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain how the subject had entered Canada, and whether he had applied for citizenship or a passport. All searches produced positive responses. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject had been subsequently granted a Certificate of Identity, and Canadian passports on five occasions.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-

Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 317

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 318

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper publication. The allegation made therein was that the subject tortured and murdered political opponents in a displaced persons camp, which is not a war crime within the Commission's terms of reference.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission reviewed material available from the RCMP and from the Canadian Security Intelligence Service (CSIS) to determine whether they had evidence to support any suspicion of war crime. These checks were negative. They indicated only that the subject is still actively involved with a specific movement in Canada.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject. His recent date of birth makes involvement in war crimes unlikely in any case.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 319

This individual was brought to the attention of the Commission by the RCMP, whose principal source of information was a foreign publication. It was alleged that the subject participated in the liquidation of civilians in 1941-1943, while acting as an investigator in the Nazi police. The foreign publication listed the names of several potential witnesses and claimed that the subject was residing at a specified address in Canada. The foreign source provided no information regarding the subject's place and date of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle registration records and investigations by Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in that country, the file should be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres in that country, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 320

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 321

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), whose source of information was unknown. There was no allegation against the subject nor was there any evidence that the subject committed war crimes or entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission confirmed that the Berlin Document Center had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 322

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 323

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 324

Name stricken off Master List.

CASE NO. 325

This individual was brought to the attention of the Commission by Mr. Sol Littman. There was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1928. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1965. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 326

Opinion is in abeyance pending results of external checks.

CASE NO. 327

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous telephone informant. The allegation made against the subject was that he had been a member of the Nazi Party in 1943-1944. No further allegations were made against the subject by the informant.

Checks with the departments of Employment and Immigration, the Secretary of State and External Affairs indicated that the subject entered Canada in 1952, was granted Canadian citizenship in 1958 and obtained a Canadian passport.

The Commission was advised by the Berlin Document Center that it has a record of the subject which confirms only that he may have been a member of the Nazi Party. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised the Commission that it had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 328

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 329

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 330

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that the subject "served in the police" and "shot two Soviet officers". No specific evidence of the alleged war crimes was provided, but the subject was reported to be living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951 from a West European country. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1957. The Department of External Affairs advised that the subject obtained a Canadian passport but resides permanently in a foreign country.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 331

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that the subject participated in the shooting of civilians while he was chief of police in a village of an Eastern European country. The subject was alleged to be living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951 from a West European country. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1957. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Berlin Document Center advised that it had no record on the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised that its record on the subject indicates only that the subject has been named as an alleged war criminal by Simon Wiesenthal. The Commission asked for, but did not receive, further particulars of this allegation from Mr. Wiesenthal.

The Commission also confirmed that the subject died in Canada in 1982. A copy of the death certificate was obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 332

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that the subject served in the "police" during the "Nazi occupation" and shot three escaped prisoners of war, but no evidence in support of this allegation was provided. The subject was alleged to be living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle records were also negative.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 333

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority which had requested the assistance of the RCMP in contacting the subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The RCMP interviewed the subject on behalf of the foreign authority.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

Documents from the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository indicated that the subject had been a member of the Waffen-SS. Prior to volunteering, he had served with the Schutzmannschaft and with the police. His curriculum vitae indicates that he had served with a national army after high school, but subsequently deserted.

On the basis of the foregoing, no evidence of participation in war crimes beyond membership in the relevant Waffen-SS is available. Without such evidence, and without even an allegation of a specific war crime having been committed as an SS member, or prior thereto, mere membership in the Waffen-SS is insufficient to establish a *prima facie* case for the Commission's purposes, according to the same reasoning as discussed in chapter I-8 of this Report (see finding no. 59) pertaining to the Galicia Division.

On the other hand, there is clear evidence the subject was admitted to Canada when voluntary Waffen-SS members should still have been precluded from entry. Furthermore for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **The subject should be summoned by the appropriate authorities for interrogation on his wartime activities as well as on the circumstances leading to his immigration and citizenship.**

2- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, then there remains no other alternative but to close the file.**

3- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a decision taken as to a possible prosecution.**

4- **Should no incriminating evidence become available, the Canadian government should consider the advisability of pursuing revocation of citizenship and deportation of the subject, based on his failure to disclose his SS history.**

CASE NO. 334

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a certain publication. It was alleged that the subject had been a member of the SD police in an Eastern European country and as such had murdered civilians. The source claimed that the subject was residing in Canada but provided no particulars and no information concerning the subject's date and place of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1956. The Department of the Secretary of State reported that another individual with a similar name was granted Canadian citizenship in 1956. The Department of External Affairs reported that this last named individual had obtained a Canadian passport.

Further checks of police and motor vehicle records and investigations by Commission's staff revealed that the individuals with similar names were residents of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject or of the individuals with similar names.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres, the file should be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 335

Name stricken off Master List.

CASE NO. 336

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 337

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a member of a political committee and had written a newspaper article in 1943 welcoming the formation of the Galicia Division. Mr. Littman made no further allegations of war crimes, and when contacted by the Commission, advised that he did not think that the subject was in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

Further checks with police and motor vehicle registration records were also negative.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available.

The Commission was also advised that the subject died in a West European country in 1985. A copy of the death certificate has been obtained by the Commission.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 338

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In

addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 339

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted by the Canadian Jewish Congress. It was alleged that the subject committed war crimes while a member of the police in an Eastern Bloc country, but no specific evidence was provided. The subject was also alleged to be living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Berlin Document Center advised that it has no record on the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised that its record on the subject indicates only that the subject has been named as an alleged war criminal by Simon Wiesenthal. The Commission asked for, but did not receive, further particulars of this allegation from Mr. Wiesenthal.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 340

Name stricken off Master List.

CASE NO. 341

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 342

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that the subject was an accomplice in the shooting of civilians in an Eastern European country in 1941, but no evidence in support of this allegation was provided. The subject was alleged to be living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1974. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission was advised by the Berlin Document Center that it has a record of the subject which confirms only that he may have been a member of the Waffen-SS. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised that its record on the subject indicates only that the subject has been named as a possible war criminal by Simon Wiesenthal. The Commission asked for, but did not receive, particulars of this allegation from Mr. Wiesenthal.

The Commission has also confirmed that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 342.1

Opinion is in abeyance pending results of external checks.

CASE NO. 343

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 344

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1960. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1966. The Department of External Affairs reported that it had no record of the subject.

Further checks with police and motor vehicle records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission also confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 345

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 346

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Further investigation revealed that the subject died in another country in 1981. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 347

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual was part of an execution squad in 1941 in an Eastern European country at a time and place at which a large number of Jews were executed.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject but no further information than that already known to the Commission.

The Commission was also informed that a review of prosecution files held by the Public Prosecutor's Office of a West European city indicates that the subject was named as having participated in executions in an Eastern European country.

On the basis of the available evidence, there is a *prima facie* case of war crimes against the subject, which deserves of deeper consideration. Time constraints did not, however, permit the Commission to take the various steps which are indicated by the information already at hand.

The Commission accordingly *RECOMMENDS* that:

1- **The subject should be summoned for interrogation by the appropriate authorities.**

2- **The Canadian government should pursue the Commission's efforts and inquire from the relevant Eastern Bloc authorities and from the Public Prosecutor's Office of a West European city whether they possess any evidence in support of the allegations of war crimes which would have been committed by the subject in an Eastern European country in 1941.**

3- **Depending upon the results brought about by those various steps, the file should be re-assessed and a decision taken on the procedures to be initiated, if any, against the subject.**

CASE NO. 348

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1959. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The Commission also determined that the subject died in another country in 1981. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 349

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 350

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain foreign broadcasts. It was alleged that this individual had been connected with an organization in Canada supporting a foreign nationalist movement and had worked for the SS during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs provided a copy of a letter written to the Canadian Ambassador in an Eastern Bloc country in 1968 in respect of the broadcast indicating that the RCMP had been "unable to substantiate the authenticity of any of the alleged war crimes mentioned".

The Commission conducted CPIC and MVB searches against the subject. Both search responses were negative. Through other investigations, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Berlin Document Center provided information which indicated that the subject had served in an Eastern European army and militia prior to the war, avoided the draft and survived to join the self defence forces which sprang up in the wake of the German advance in 1941.

Between 1941 and 1944, he served in this unit in an Eastern European country.

The subject was subsequently called up for service in the Waffen-SS in 1944 and joined a specific SS unit. In the SS he rose to the rank of Untersturmführer (Second Lieutenant).

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

Furthermore, time constraints did not permit the Commission to take various other steps which are obviously indicated by the information already at hand.

The Commission accordingly *RECOMMENDS* that:

1- **The subject should be summoned for interrogation by the appropriate authorities.**

2- **Historical research should be conducted into the activities of the companies to which the subject was attached throughout the war.**

3- **The Canadian government should inquire from the relevant Eastern Bloc authorities whether they possess any evidence in support of the allegations of war crimes against the subject.**

4- **Depending upon the results brought about by those various steps, the file should be re-assessed and a decision taken on the procedures to be initiated, if any, against the subject.**

CASE NO. 351

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 352

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS, and that he attended a certain military training course. An additional list includes the subject's name.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

In spite of the above information, it is recommended that the file on the subject be closed, since he never entered Canada.

CASE NO. 352.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. There was no specific allegation of war crimes against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1982. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, reported that the subject was called up for active service in the Wehrmacht in 1937. He served until 1940, and took part in the conquest of a West European country. He then served on the Eastern Front, where he took part in a long series of battles. He was promoted. During the latter period of the war, he served in Western Europe.

The Commission also checked with the United Nations War Crimes Commission and ascertained that a West European government had accused an individual which this Commission believes may well be the subject under investigation of being a suspected war criminal.

The Commission believes that the suspect and the subject under investigation may be one and the same for the following reasons: the surname (there is no first name given in the UN files), the rank, the regiment and the division of the suspect match the information provided on the subject under investigation by the Central Information Office of the Federal Archives in Aachen-Kornelimünster and WASt. Moreover, these reports indicate that in 1944-1945 the subject under investigation was serving in West European countries, and the U.N. material indicates that the crimes were committed in Western Europe in 1944.

For the foregoing reasons the Commission *RECOMMENDS* that:

1- **The Canadian government ought to pursue with the relevant West European government the matter of the war crimes alleged by it against the subject, in order to determine whether the relevant government is interested in requesting the extradition of the subject.**

2- **Failing such interest on the part of the relevant government, the Canadian government should see that:**
   - a) **a complete history be compiled of the units in which the subject served from enlistment to the end of the war, to include the activities of those units while he was assigned to them;**
   - b) **all available evidence be obtained from the relevant government;**
   - c) **the subject be interviewed by appropriate authorities to obtain his explanation of his activities during the war;**
   - d) **the matter be re-assessed and a final decision be taken on the basis of the results of those inquiries.**

CASE NO. 353

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 354

Name stricken off Master List.

CASE NO. 355

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that the subject was missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 356

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed that the subject was inducted into the Reichs-Arbeitdienst (Reich Labour Service) and served as an instructor for non-commissioned officers in an Abwehrkommando and as an interpreter for the Sicherheitspolizei (SD) prior to service in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 357

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The response from the Department of External Affairs was negative.

The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated he was a member of the Waffen-SS.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in suppport of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 358

Name stricken off Master List.

CASE NO. 359

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, apart from the citizen's assertion that he was a member of the SS. Also, the documentation received did not contain sufficient information to permit further investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results for the subject under investigation, but they each submitted a record on a person with a similar name.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 360

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified, and by the Simon Wiesenthal Center in California. It was alleged that the subject was an Eastern European war criminal living in Canada and that he had participated in the murder of Jews in several places in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted a CPIC search against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 361

Name stricken off Master List.

CASE NO. 362

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 363

Name stricken off Master List.

CASE NO. 364

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was the Documentation Center in Vienna. It was alleged that this individual had been involved in killings in a concentration camp in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The response from the Department of External Affairs was negative.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1960. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 365

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain newspaper publication. It was alleged that this individual was a senior official in a historic-military department of the military government purportedly established in 1943 to effect the organization of the Galicia Division of the Waffen-SS. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes. The Commission was advised by Mr. Littman that this individual's participation in the organization of the Galicia Division was a political act.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks against the name supplied to the Commission by Mr. Littman in order to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission determined that the name of the subject as supplied to the Commission by Mr. Littman consisted of only a surname. Additional inquiries conducted by the Commission ascertained the subject's given name, and confirmed that he died in Canada in 1976. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 366

Name stricken off Master List.

CASE NO. 367

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was granted a certificate of identity in 1957 and a Canadian passport subsequently.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 368

This individual was brought to the attention of the Commission by the RCMP and the Canadian Security Intelligence Service (CSIS), whose sources of information were certain newspaper publications. It was alleged that this individual was a spy for the Germans and had secret communications with the "enemy" or its agents during the occupation of Western Europe. He would have been sentenced to death *in absentia* for treason and war crimes in 1945 by the courts of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada under an assumed name in 1946. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956 and a replacement certificate more recently. The Department of External Affairs reported that the subject was granted Canadian passports on four occasions.

The Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

In 1985, the Commission wrote to the Department of External Affairs in order to determine from the relevant authorities whether the conviction was still outstanding.

In 1986, the Commission received, through the Department of External Affairs, a copy of a judgement from the Archives of the West European country which confirmed the death sentence in respect of the subject. However, by decree of the relevant authorities in 1960, the subject was granted amnesty in accordance with national laws.

The Government of Canada was aware of the subject's past when he applied for landing in this country. This individual was, nevertheless, admitted to

Canada by Order-in-Council and his past was erased by his former country in 1960.

The Commission accordingly *RECOMMENDS* that:

1- **In view of the knowledge by the Government of Canada of the subject's past when he was admitted to Canada by Order-in-Council, no proceedings in revocation of citizenship and deportation should, nor indeed can, be initiated against the subject.**

2- **In view of the decree of amnesty of which the subject has benefited in 1960, no prosecution should, nor indeed can, be started against the subject relative to criminal acts which he is alleged to have committed during the occupation of Western Europe in the early 1940s.**

CASE NO. 369

This individual was brought to the attention of the Commission by the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual had been involved in killings in a concentration camp in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1951. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1958. The Department of External Affairs reported that the same individual was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against this Canadian citizen. Though the CPIC and the MVB searches were negative, the Commission determined this person to be resident in Canada in 1986.

The Commission also interviewed witnesses who were survivors of a wartime ghetto, and was advised that the war criminal under investigation referred to by one of the witnesses is not the Canadian citizen. Also, it appears that the person alleged to be a war criminal died or committed suicide in March 1945 in an Eastern Bloc country.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 370

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galician Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed that the subject served in the Reichs-Arbeitdienst (Reich Labour Service) and then a specific military unit, which was organized by the Abwehr, prior to his service in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 371

This individual was brought to the attention of the Commission by the RCMP, whose source of information was anonymous. It was alleged that this individual had been an SS officer during World War II. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

After studying the RCMP file, the Commission determined that the subject entered Canada in 1955. The subject, located by the RCMP, was living in Canada in 1983.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Military Organizational records including Waffen-SS in Freiburg, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht

(WASt) in Berlin, that it had a record of the subject which indicated he was an Unteroffizier (Corporal) in the German army.

Due to the lack of any evidence relative to war crimes, it is recommended that the file on the subject be closed.

CASE NO. 371.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen, who alleged that the subject had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission followed up on information in the RCMP file and determined the subject to be resident in Canada in 1986.

The Commission conducted checks with the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, and found they had no record of the subject.

Information received through checks at the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository indicate that the subject became a member of the Nazi Party in 1931 and that he served with the German Armed Forces from 1937 onwards. The subject was a non-commissioned officer with the Luftwaffe throughout the war. There is no indication he was ever involved with the SS in any way whatsoever.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 371.2

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was anonymous. It was alleged that this individual was a Nazi and had been a commander of a concentration camp. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 (the 1951 subject). In addition, the Department advised that another person with a similar name entered Canada in 1958 (the 1958 immigrant). The Department of the Secretary of State reported that the 1951 subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the 1951 subject was subsequently granted Canadian passports. All other search responses were negative in respect to the 1958 immigrant.

The Commission conducted CPIC and MVB searches against the 1951 subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the 1951 subject to be resident in Canada in 1986. The name of the 1958 immigrant was also verified but to no avail. There is no indication that he is in Canada. A source of unknown reliability relates that approximately ten years ago this person was living in a Canadian province and is believed to have returned to a foreign country.

The Commission contacted a representative of the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record in respect of the 1951 subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository, that it had a record of the 1951 subject which indicated his membership in the Wehrmacht (Regular Army).

The Commission was also advised by the Berlin Document Center that it had a record of the other individual (the 1958 immigrant), which indicated his membership in the Waffen-SS in 1941. This individual was trained as a communications officer, specializing in radio and field telephone work. He spent much of the war with a specified regiment in Western Europe, as well as at various communications training courses. He served briefly at the front in 1942 and again with an army unit in 1942-1943. In 1944, he was transferred from his first regiment to another SS Division. During the course of his service in the SS, he was promoted. This person does *not*, however, seem to have been involved in anything other *than radio and telephone communications*.

There is therefore no evidence of the original allegation against either one of the two immigrants of 1951 or 1958.

The Commission accordingly *RECOMMENDS* that:

1- **The file on the 1951 subject should be closed.**

2- **The Government of Canada, however, should pursue the Commission's efforts to locate the 1958 immigrant and obtain further evidence in respect to this individual.**

3- **Assuming the 1958 immigrant is located in Canada and further evidence is available, the matter ought then to be re-assessed and a final decision taken.**

CASE NO. 372

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose sources of information were a private citizen, a certain newspaper and various documentation. It was alleged that this individual was a Nazi collaborator and a death squad leader. In 1941, after the invasion of Eastern Europe, the subject would have been appointed commander of a concentration camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The response from the Department of External Affairs was negative with regard to the Canadian citizen. All search responses were negative in respect of the subject under investigation.

The Commission conducted CPIC and MVB searches against these two individuals, (the subject and the Canadian citizen with a similar name), with negative results. After a thorough investigation, the Commission determined the Canadian citizen (who entered Canada in 1949) to be resident in Canada in 1986.

The Commission, through the Department of External Affairs, requested from a foreign authority, information with respect to the subject and determined that he was living in that country.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record in respect of the subject or the Canadian citizen.

The Commission was advised by the Berlin Document Center that it had a record of the subject without providing further information.

It would appear that the subject under investigation never landed in Canada and for this reason, it is recommended that the file on this individual be closed.

CASE NO. 373

Opinion is in abeyance pending results of external checks.

CASE NO. 374

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 375

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose sources of information were the police of a foreign country and an Eastern European publication. It was alleged that this individual had joined a Nazi punitive body during the German occupation of Eastern Europe and participated in the killings (with his brothers) of numerous citizens. In the said Eastern European publication, there are names of witnesses who appear to implicate the subject as having participated directly or indirectly in atrocities.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1970. The Department of External Affairs reported that a person with a similar name (who does not appear to be the subject) was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject which indicated that his name was on the Wiesenthal list.

In 1985, the Commission wrote to the Legal Adviser of the Ministry of Foreign Affairs of a foreign government and informed him that it had located the subject in Canada. In 1986, the Commission received documentation from the relevant foreign police but not in respect of the subject.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against a person having a similar surname as the subject. The files contained sufficient information to permit the Commission to conclude that the charges were not related to the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 376

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was an Eastern Bloc publication. It was alleged that this individual served the Nazis during the German occupation of Eastern Europe and participated in the killings (with his brothers) of numerous citizens. In the said publication, there are names of witnesses who appear to implicate the subject as having participated directly or indirectly in atrocities.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of the inquiry.

CASE NO. 377

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was an Eastern Bloc publication. It was alleged that this individual served the Nazis during the German occupation of Eastern Europe and participated in the killings (with his brothers) of numerous citizens. In the said publication, there are names of witnesses who appear to implicate the subject as having participated directly or indirectly in atrocities.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of the inquiry.

CASE NO. 378

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 379

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 380

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission conducted CPIC, MVB and vital statistics searches against the subject and checked with the provincial and local police forces, all with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

Further investigation revealed that the subject was incarcerated in a foreign prison in 1982 to serve 20 years for attempted murder and criminal threat, plus an additional five years for attempted murder.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 381

The surname of this individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman made no particular allegation against the subject and provided no information concerning the subject's given name or sex, but claimed that an Eastern Bloc country had requested the subject's extradition from the governments of several Western countries. When contacted by the Commission, Mr. Littman advised that he did not think that the subject was in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The departments of Employment and Immigration and the Secretary of State reported that they had no record on the subject. The Department of External Affairs reported that it had a record on a woman whose maiden name was the same as the subject's.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the surname which had been given to the Commission.

On the basis of the foregoing, the Commission recommends that the file on the subject be closed.

CASE NO. 382

Name stricken off Master List.

CASE NO. 383

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS and in the Wehrmacht.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 384

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1938. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1945. The Department of External Affairs reported that the subject was granted Canadian passports on several occasions. This department confirmed that between 1938 and 1947 the subject was resident in Canada except during a business trip to Europe in 1939.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search results were negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the individual who submitted the subject's name to the RCMP, and determined that she had no additional information relevant to the Commission's inquiries.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 385

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by a West European Ministry of Justice. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from relevant officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 386

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of unknown origin. It was alleged that the subject under investigation had served as a policeman in Eastern Europe in 1941 and murdered named individuals.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname and first name entered Canada in 1948. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of the subject. None of the departments had a record of the subject's name as submitted to the Commission.

The Commission conducted CPIC and MVB searches under both the subject's name and that of the individual who entered Canada. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that the individual who entered Canada was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, confirmed only that the subject had been named by Mr. Wiesenthal. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository, confirmed only the subject's membership in the Galicia Division of the Waffen-SS and that he was killed or missing in action.

It therefore appears that, of two possibilities, either the immigrant was not the same person as the subject and the latter is dead, or they were the same person, but no evidence of war crimes is available.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 387

This individual was brought to the attention of the Commission by the RCMP which was acting on correspondence addressed to the Honourable Robert

Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject. The Berlin Document Center advised that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that he was transferred to another SS unit in early 1945.

The comparatively early entry into Canada by this subject did not violate immigration requirements at the time.

Furthermore, on the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 388

Name stricken off Master List.

CASE NO. 389

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Department of Manpower and Immigration (as it then was). It was alleged that this individual had been a member of a specific regiment of the Waffen-SS and a member of a fascist paramilitary organization during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that the Berlin Document Center had a record in respect of the subject indicating that he was second lieutenant in a regiment of the Waffen-SS. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1978. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 390

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 391

Name stricken off Master List.

CASE NO. 392

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 393

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper publication. It was alleged that this individual had been involved in the murder of thousands of people by Nazis and Eastern European collaborators.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that it had no record in respect of the subject.

The Berlin Document Center confirmed that the subject was an officer with a specific unit of the Waffen-SS, after prior service as a civic official and with another military unit. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, confirmed that it had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1961. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 394

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual was from an Eastern Bloc country and had participated in war crimes. Only a commonly used surname was provided.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported that they had hundreds of possibilities and could do nothing further without details of at least a given name.

The Commission conducted CPIC and MVB searches against the subject with similar results.

The Commission confirmed that the Berlin Document Center could not conduct a search without further details.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 395

This individual was brought to the attention of the Commission by anonymous correspondence in which it is alleged that the subject had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, had any record of the subject.

However, the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository reported they had records of the subject. These records indicate that the subject served with the Schutzpolizei, or local police force, and that he eventually became a captain. He was not a member of the SS.

It was not a war crime, nor a bar to entry into Canada in 1951, to have served with the Schutzpolizei.

The Commission reviewed United Nations War Crimes Commission files pertaining to a person with a similar name but concluded it could not have been the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 396

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 397

This individual was brought to the attention of the Commission by a private citizen, whose source of information was unspecified. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The source of the complaint was interviewed but had no additional information as to the subject's whereabouts or alleged crimes.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 398

This individual was brought to the attention of the Commission by the RCMP, which was acting on correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission was advised by the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, and the Berlin Sick Book Depository, that they had records of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 399

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual had been an assistant police chief in Eastern Europe when several thousand persons were murdered by Nazis and Eastern European Nazi collaborators.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and identical first name entered Canada in 1949. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1956. The Department of External Affairs reported that it had no record of this individual. No department had any record of the subject with the identical name as that provided to the RCMP.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant**

Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the Eastern Bloc government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 401

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject participated in the activities of a field group of a specified Eastern European military organization. When contacted by the Commission, Mr. Littman could provide no further particulars of war crimes or of the subject's place and date of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1948. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of the subject.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of relevant authorities whether they might possess some evidence in support of the allegation of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to appropriate archival centres, the file ought to be closed.**

2- Should the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 402

This individual was brought to the attention of the Commission by the RCMP, acting on correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1963. The Department of External Affairs reported that the subject applied for a Certificate of Identity in 1957 and was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search provided positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

The Central Information Office of the Federal Archives in Aachen-Kornelimünster, and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, advised that they had records of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

However, the Berlin Document Center provided specific information, concerning the immediate pre-war and wartime record of the subject.

When it comes to the evaluation of the subject however, the information presented differs from that provided by the subject himself in his handwritten *curricula vitae.*

The Commission also checked all of the Reichsführer SS foreign records relating to the SD, but was unable to locate any mention of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern European authorities whether they might possess some evidence in support of the allegations against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 403

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 404

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes, apart from Mr. Wiesenthal's assertion that the subject had been a member of an Eastern European fascist paramilitary organization prior to

1940 and a member of the "fascist government administration from 1940-1941" in an Eastern Bloc country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff established that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the named fascist paramilitary organization is available. Without such evidence, and based upon the reasoning set out in chapter I-8 of this Report (see finding no. 59), mere membership in the named organization is insufficient to establish a *prima facie* case for the Commission's purposes.

However, the alleged participation of the subject in the fascist government administration during 1940-1941 deserves closer examination; also the subject himself must be interrogated. Time limits imposed on the Commission have not permitted it to complete those tasks. Furthermore, due to the policy decision explained in chapter I-5: "Methodology", the Commission has refrained from contacting the relevant Eastern Bloc government in connection with the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the Government of the relevant Eastern Bloc country or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the government of the relevant country or to the appropriate archival centres, it should also carry out an interrogation of the subject.**

3- **The matter should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. 405

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. It was alleged that this individual had been a Nazi war criminal in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1967. Further to a change of name, the subject was granted a new certificate of citizenship in 1969. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 405.1

Opinion is in abeyance pending results of external checks.

CASE NO. 406

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Jewish Defence League. It was alleged that the subject under investigation had been a member of a fascist paramilitary organization.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1977. It was unclear from the record at what city the subject entered. The Department of the Secretary of State reported that the subject applied for but was refused Canadian citizenship in 1980 on the basis that he did not have adequate knowledge of Canada and of the responsibilities and privileges of citizenship. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Both search responses were negative. Through telephone checks, the Commission has determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

CASE NO. 407

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 408

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject had committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not obtain, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject entered Canada, applied for citizenship or obtained a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1951. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1957. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS.

The Commission has also confirmed that the subject died in Canada in 1963. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 409

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS and that he was missing in action. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that there was a Canadian address, obtained from the telephone book, listing an individual with a similar surname and a first initial matching that of the subject's. Further investigation revealed that this individual was female whereas the subject under investigation was male.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 410

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with the same name but a different date of birth entered Canada in 1949. The Department of the Secretary of State reported that the person who landed was granted Canadian citizenship in 1956. The Department of External Affairs reported that the person who landed was subsequently granted a Canadian passport.

The Commission conducted MVB, CPIC and other searches but was unable to determine whether the individual who landed in Canada is still resident here, nor where he might be.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available against the subject. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

Furthermore, the individual who landed in Canada may not be the subject and, in any event, cannot be located in Canada.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 411

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that the subject had murdered citizens of an Eastern Bloc country. No further evidence of war crimes was provided.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that it had no record of the subject.

Further checks of police and motor vehicle registration records and investigations by Commission's staff revealed that the subject may have been an occasional resident of Canada in 1986, but was primarily domiciled in a foreign country.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegation of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to appropriate archival centres, the file ought to be closed.**

2. **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be reassessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 412

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not obtain, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1948 from a West European country. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1954. The Department of External Affairs advised that the subejct did not obtain a Canadian passport.

The Commission was advised by the Berlin Document Center that it had a record on the subject which confirms only that he may have been a member of the Waffen-SS. The Commission was advised that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

The Commission has also confirmed that the subject died in Canada in 1959. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 413

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 414

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 415

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter addressed to the Department of External Affairs by an Eastern European country refusing the subject's request that his wife be permitted to emigrate from that country to Canada. In this letter, that country alleged that the subject had been a member of a punitive detachment in Eastern Europe during the war and had killed citizens. No further particulars were provided.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada, and whether the subject had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1953. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the relevant authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in that country, the file should be closed.**

2. **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres in the relevant country, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 416

Name stricken off Master List.

CASE NO. 417

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the voluntary declaration of the subject to a local police force that he had been a member of the Nazi Death's Head Unit. Upon inquiry, the Commission was informed by the local police that the voluntary declaration had been made in the context of the subject's arrest for impaired driving. There were no other allegations or evidence of war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1965. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1978. The Department of External Affairs reported that it had no record in respect of the subject.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg that it had a record of an individual with a similar name but different date of birth. This individual was interviewed by foreign authorities in the course of an investigation conducted in 1975 by the Public Prosecutor's Office of a West European country into allegations of war crimes committed by yet another individual. The prosecution was not pursued, but the German authorities advised that the individual with a name similar to the subject's was a resident of an Eastern Bloc country in 1975.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also obtained and reviewed a copy of the United Nations War Crimes Commission file on an individual whose family name is similar to the subject's. The subject of this file was alleged to have participated in the execution of three French resistance fighters in France in July 1944. The file contained no further particulars and no information establishing a link between the two subjects.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available. The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 418

This individual was brought to the attention of the Commission by a private individual. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that it had no record in respect of the subject. Similarly, the Department of External Affairs reported that it had no record in respect of the subject.

The Commission's investigators interviewed the source, who confirmed that he had no evidence that the subject had committed war crimes.

The Commission determined that the subject died in Canada in 1977. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 419

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 420

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was certain newspaper publications and correspondence. It was alleged that this individual had been involved in a pogrom in Eastern Europe, although the allegation was later withdrawn with an apology when it proved to be unsubstantiated.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that it had no record in respect of the subject, although it had landing records for two individuals with identical surnames and similar first names and different places and dates of birth. The Department of the Secretary of State reported that an individual with an identical surname and similiar first name but different date and place of birth was granted Canadian citizenship in 1955. The Department of External Affairs reported that an individual with an identical surname and similar first name, but different date and place of birth, was subsequently granted a certificate of identity and a Canadian passport.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject under investigation. The Berlin Document Center confirmed that this subject had headed a faction of an Eastern European nationalist movement.

The Commission determined that the subject under investigation died in a West European country in 1964.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 421

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. As there was an allegation that the subject resided in Canada, the Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that he was missing in action. It also confirmed that he served in an Eastern Bloc army from 1926 to 1939 and in the police or Schutzmannschaft in an Eastern Bloc city from 1941 to 1943.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 422

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual had killed Jews in an Eastern European country. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1977. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Berlin Document Center that it needed more details to complete its name search.

The Commission was also advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

The Commission reviewed the United Nations War Crimes Commission files which contained charges against a person having the same surname as the subject. The files contained sufficient information to permit the Commission to conclude that the charges were not related to the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 423

See chapter I-6 of this Report: "The Mengele Affair".

CASE NO. 424

See chapter I-6 of this Report: "The Mengele Affair".

CASE NO. 425

This individual was brought to the attention of the Commission by both the Canadian Jewish Congress and by Mr. Sol Littman. It was alleged that this individual had been a leader of a security police and had participated in extermination operations. There was no allegation or evidence that this individual had entered Canada. Mr. Littman advised that this individual died in Western Europe in 1969.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had a record in respect of the subject. However, the record did not contain any information to indicate that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 426

This individual was brought to the attention of the Commission by B'nai Brith, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual with the exception that he had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1966. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1978. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission interviewed the citizen who submitted the subject's name to B'nai Brith, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission received material available from RCMP files concerning two interviews of the subject. His repeated denials of involvement with the Nazis and his late date of birth in 1931 cast doubt upon any allegation of war crimes.

Further, the Commission confirmed that the Berlin Document Center had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 427

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual had been the Gestapo chief of an Eastern European city.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission was informed by the Berlin Document Center that it needed more details to complete its name search. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject which indicated he had been chief of a Division under the commander-in-chief of the security police in an Eastern European city. Also, the subject would have died in 1946 in a West European country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 428

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS).

The Commission was not provided with any information regarding the date and place of birth of the subject, and was advised that the CSIS file on the subject was destroyed in 1983 in accordance with normal file destruction procedures. The nature of the allegation (if any) and evidence against the subject are therefore not known.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 429

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was an anonymous telephone message. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Centre nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 430

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a request by the Department of Justice for an investigation of the subject. The RCMP file reviewed by the Commission contained no information regarding the reason for the requested investigation and no particulars of war crimes other than the allegation that the subject worked as a prison guard in Eastern Europe during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that it had no record in respect of the subject.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. But the allegation deserves of deeper scrutiny. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegation of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to appropriate archival centres, the file ought to be closed.**

2. **Should the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 431

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Sol Littman. Mr. Littman had forwarded a letter to the RCMP from a private individual. It was alleged in the letter that the subject under investigation had been in charge of an unnamed camp and was believed to have shot civilians.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1959. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1965. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission interviewed the individual who submitted the subject's name to Mr. Littman and was advised that this individual had subsequently determined that the subject under investigation had been a prisoner of war and further that the complaint was unfounded.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 432

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a member of a fascist political party, but made no other allegation and provided no evidence against the subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission also confirmed that neither the Berlin Document Center, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 433

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous informant. The only allegation made was that the subject was "a possible German involved in war crimes". No specific allegation or evidence against the subject was provided.

The Commission reviewed material available from the RCMP and CSIS, which determined that the subject was born in 1933, and for that reason could not have been involved in the commission of war crimes between 1939 and 1945.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 434

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 435

This individual was brought to the attention of the Commission by the RCMP, whose files indicated that the subject emigrated to Canada in 1948, obtained Canadian citizenship in 1954, was granted a Canadian passport, and was arrested by Eastern European authorities while visiting another country in 1969. He was charged at that time with the murder of partisans during World War II, tried and sentenced to a term of imprisonment. After a successful appeal for clemency, he was released in 1980 and returned to Canada.

Investigations conducted by the Commission's staff determined that the subject was a resident of Canada in 1986.

On the basis of the available evidence, it appears that the subject may have failed to disclose the nature of his wartime activities to Canadian immigration and citizenship authorities. In doing so he may have breached the rule that no material circumstances should be concealed. For this reason he may also be liable to revocation of citizenship and possible cancellation of landed immigrant status.

Additional inquiries are, however, necessary before a final decision can be taken. Unfortunately, time constraints did not permit the Commission to complete them.

The Commission accordingly *RECOMMENDS* that:

1- **The subject should be summoned for interrogation by the appropriate authorities concerning his wartime activities and the disclosures in**

connection thereof which he made, if any, when he applied for an immigration visa and, subsequently, for Canadian citizenship.

2- Full inquiries should be made concerning the immigration and citizenship process and documents relative to the subject.

3- The Government of Canada should obtain from the government of the relevant Eastern Bloc country the full documentation relative to the war crimes alleged against the subject, the conviction of the latter and the circumstances of his release.

4- Depending upon the results brought about by those various steps, the file should be re-assessed and a decision taken on the procedures to be initiated, if any, against the subject.

CASE NO. 436

Name stricken off Master List.

CASE NO. 437

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 438

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1973. The Department of the Secretary of State reported that the subject was not granted Canadian citizenship. The Department of External Affairs reported that it had no record of the subject.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident of Canada in 1986.

The Commission was also advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 439

This individual was brought to the attention of the Commission by the RCMP. It was alleged that the subject had been sentenced in 1945 to imprisonment for collaboration with a Nazi puppet regime.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1946. The Department of the Secretary of State advised that the subject was granted Canadian citizenship. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission has also confirmed that the subject died in a foreign country in 1976. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 439.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname and identical first name entered Canada in 1951. The Department of the Secretary of State reported that this same individual, whose surname now matched that of the subject under investigation was granted Canadian citizenship in 1957. The Department of External Affairs reported that this same individual was subsequently granted Canadian passports.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 440

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 441

This individual was brought to the attention of the Commission by a private citizen, who alleged that he had heard that the subject had been condemned to death by an Eastern European government, possibly for involvement in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission interviewed the citizen who submitted the subject's name to the Commission, and determined that he had no additional information relevant to the Commission's inquiries, other than alleging that the subject has changed his name twice since the war.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission contacted the relevant Eastern European authorities regarding their records of a conviction against the subject, and they replied indicating they had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 442

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 443

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject had entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted an MVB search and determined the subject to be resident in Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 444

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 445

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person with a similar name, but with a different date and place of birth, entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship. The response from the Department of External Affairs was negative.

The Commission was advised by the Berlin Document Center and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject which confirmed only his membership in the Galician Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The Commission was also informed that the subject died in a West European country in 1986.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 446

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed that the subject served in a particular unit as well as in the Galician Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 447

This individual was brought to the attention of the Commission by a private citizen. It was alleged that the subject was an Eastern European war criminal who entered Canada. There was no specific evidence as to where the subject may have been resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission also confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on this subject be closed.

CASE NO. 448

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was born in an Eastern European country, and as a member of the German Armed Forces during the war had killed dozens of civilians. It was reported that this individual was resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported positive search results. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted local inquiries and confirmed the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 448.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a private citizen. It was alleged that this individual was a member of the government in an Eastern European country during the war. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. Numerous responses were received from all departments in respect of persons whose names were identical to the subject's. The Department of Employment and Immigration reported that one such person had the same country of birth and occupation as the subject and had entered Canada in 1951. He was destined for the residence of an individual in Canada who is also alleged to have been a member of an Eastern European government and is the subject of Case No. 316. The Commission determined that this particular immigrant was the subject of the case under consideration. The departments of the Secretary of State and External Affairs reported negative search results in respect of the subject, and the Commission was unable to determine his whereabouts in Canada.

By sheer coincidence, another immigrant entered Canada in the same month with the same name, the same profession and the same country of origin. He is currently living in Canada. Further searches showed, however, that this other immigrant could not be the subject of the Commission's investigation because he is 10 years younger than the subject and has married a Canadian woman, whilst the subject entered Canada with his foreign wife and children.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada be successful in locating the subject, and decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 449

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission was advised by Mr. Wiesenthal that he was unable to provide additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 450

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern European country. It was alleged that this individual had participated in the shooting of citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted a vital statistics search. All search responses were negative.

The Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 451

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen and information from a Jewish council in Eastern Europe. It was alleged that this individual was a member of the SS, the Waffen-SS and the SD. Also, he was responsible for a specific attack in an Eastern European country in 1939, and participated in the kidnapping of Allied officers in a West European country in 1940.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission was advised by the Berlin Document Center that it needed more details to complete its name search. The Commission confirmed that the Central Information Office of the Federal Archives in Aachen-Kornelimünster had no record in respect of the subject. The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that it had a record of the subject, which confirmed his membership in the SS and the SD and provided further information as to his whereabouts during the war. The Commission was also informed by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that the subject died in 1966.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 452

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain newspaper publication. It was alleged that this individual was active in the Galician Division of the Waffen-SS. Apart from the foregoing, there was no allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record of the subject.

The Commission determined that the subject died in Canada in 1972. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 453

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 454

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 455

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and the RCMP, whose source of information was a foreign police force. It was alleged that this individual had participated in executions in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject and that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no information other than that already known to the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 456

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and the RCMP, whose source of information was certain newspaper publications. It was alleged that this individual had been involved in mass executions of civilians in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was granted a certificate of identity.

The Commission determined that the subject died in Canada in 1969. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 457

Opinion is in abeyance pending results of external checks.

CASE NO. 458

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual, apart from the citizen's assertion that he was a member of the Hitler Youth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration submitted four separate landing records on a person with given names similar to those of the subject under investigation. The Department of the Secretary of State advised that a person with a similar name was granted Canadian citizenship. The Department of External Affairs reported that the Canadian resident was subsequently granted passports.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 459

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 460

This individual was brought to the attention of the Commission by an anonymous source. It was alleged that this person had been in an SS training camp in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject had entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The response from the Department of External Affairs was negative.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his place and date of birth and details of his war record including assignments to a particular death camp.

The Commission received from a foreign police force excerpts from the decision in the West European case against former camp guards at a certain SS training camp. One section of the decision refers to the subject as a member of a specific unit who was being seconded to the SS. However, proceedings against the subject were discontinued.

The Commission has now also determined that the subject died in Canada in 1980. A copy of the death certificate has been obtained by the Commission.

For this last reason only, it is recommended that the file on the subject be closed.

CASE NO. 461

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and a similar first name entered Canada in 1949. The Department of the Secretary of State reported that this same person was granted Canadian citizenship. The Department of External Affairs reported that this same person was subsequently granted Canadian passports. None of the departments had any record of an individual with exactly the same name as the subject reported by CSIS.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject as reported by CSIS, and the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository had no record of the subject as reported by CSIS or the individual who landed in Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 462

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that four individuals having the same surname and first name had entered Canada in 1968; in 1961 and in 1968 (the same individual having entered twice); in 1948; and in 1948 respectively. The Department of the Secretary of State reported that it had no record of the first two individuals, that the third individual had filed a Declaration of Intention in 1950 but had been killed in an automobile accident later in 1950 and that the fourth individual was granted Canadian citizenship in 1954. The Department of External Affairs reported that the fourth individual had been granted a Certificate of Identity, and was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of any of these individuals. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported that the third individual was probably the same person who had testified as a witness before the courts in a certain West European country in 1946. This witness stated that he had been arrested by the Germans in an Eastern European country in 1940 for "illegal activities" and at the end of 1940 was placed in a particular prison for six weeks. He was subsequently placed in prisons in an Eastern European country until 1944 when he was sent again to this particular prison.

The Commission has obtained a copy of the death certificate for the third individual.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 463

This individual was brought to the attention of the Commission by the Department of External Affairs, whose source of information was certain newspaper publications. No specific war crimes were alleged against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on this subject be closed.

CASE NO. 464

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress. The sources of information with respect to this individual were a certain newspaper article and Mr. Simon Wiesenthal. It was alleged that this individual had participated in the deportation of civilians from an Eastern European country to a death camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 465

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that he was missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 466

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 467

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject had entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The response from the Department of External Affairs was negative.

The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the RCMP and determined that he had no additional information relevant to the Commission's inquiries.

The Commission was informed by the Berlin Document Center that it needed more details to complete its name search.

The Commission confirmed that neither the Berlin Sick Book Depository nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

The Commission was also informed by the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, that it had a record of a person with a similar name but with a different date and place of birth, which indicated that this individual, who was a former guard at a particular concentration camp, was convicted and sentenced to a term of imprisonment by a foreign military tribunal in 1948.

Moreover, the Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin and the Berlin Sick Book Depository that the same individual (not the Canadian citizen) was in the Waffen-SS.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Wehrmacht is available against the subject. Without such evidence, mere membership in the Wehrmacht is insufficient to establish a *prima facie* case for the Commission's purposes.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 468

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 469

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain newspaper publication. It was alleged that this individual had supported the creation of the Galician Division of the Waffen-SS. Apart from the foregoing, there is no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission determined that the subject entered Canada in 1947. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs advised that the subject was granted a certificate of identity.

The Commission conducted a CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center had a record in respect of the subject.

The Commission determined that the subject died in Canada in 1972. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 470

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 471

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted a CPIC search against the subject and determined the subject to be resident in Canada in 1985.

The RCMP interviewed the citizen who submitted the subject's name and determined that he could not substantiate his allegation that the subject might be a war criminal.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Wehrmacht is available. Without such evidence mere membership in the Wehrmacht is insufficient to establish a *prima facie* case against the subject.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 472

Name stricken off Master List.

CASE NO. 473

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon

Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and indicated that he was reported missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 474

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and indicated that he was reported missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 475

This individual's surname was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The Department of the Secretary of State reported that a person with a similar name entered Canada in 1953 and was granted Canadian citizenship in 1963. All other search responses were negative.

The Commission determined the subject to be resident in Canada in 1986 as indicated by the anonymous source.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Berlin Document Center that it needed more details to complete its name search.

The Commission also received, from a private citizen, material originating with a Director for the handling of National Socialist mass crimes by a Public Prosecutor's Office in West Germany. The documentation indicates that a person, whose surname is similar to that of the subject, is named on a list of individuals charged with the killing of Jews and Russians from 1941 to 1943.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. The only, and fragile, support for the allegation is the similarity between two surnames, without the given name even being known. On that basis the file might well be closed. One may wish, however, to reach a higher degree of certainty.

The Commission accordingly *RECOMMENDS* that:

1- **On the basis of the available evidence, the file on the subject ought to be closed.**

2- **Should, however, the Government of Canada desire to reach a higher degree of certainty before a decision is taken, the matter should be put to the relevant Public Prosecutor's Office (West Germany) in order to determine whether the description of the individual charged**

with war crimes in Germany matches that of the subject and to find whether relevant evidence is available.

3- **Assuming positive answers on both counts, the file should then be re-assessed and a final decision taken.**

CASE NO. 476

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter from a private citizen. The only allegation of involvement in war crimes made against this individual was that he was an Eastern European who had worked with the Nazis.

The Commission reviewed information available from RCMP investigations. The Department of Employment and Immigration had reported that it had no record of the subject.

CPIC, MVB, CSIS, telephone book and credit checks were also negative. Finally, it was determined that the subject was resident in Canada in 1986.

The Commission was unable to establish any connection between the subject and the Nazi regime. It confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 477

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were the Canadian Jewish Congress and Mr. Sol Littman. There is no indication of their original sources, but each makes the same allegation: the subject was a policeman in an Eastern European country who participated in executing civilians in 1941 to 1943.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record in respect of the subject, but the immigrant with a similar name had been subsequently granted a Canadian passport.

The Commission conducted an MVB search and determined that the immigrant was resident in Canada in 1986, but that there was no one similar to the subject residing at the address suggested by the Canadian Jewish Congress.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject or the immigrant.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject or against the immigrant. However, for reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence to link the immigrant to the subject and to support the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the immigrant to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the immigrant's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 478

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1970. The

Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission contacted the Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission determined that the subject died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 479

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 480

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it

conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted an MVB search against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 481

Name stricken off Master List.

CASE NO. 482

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 482.1

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it

conducted of its files following the establishment of the Commission. It was alleged that the subject under investigation had voluntarily enlisted in the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted Vital Statistics and telephone searches against the subject. Though the Vital Statistics search response was negative, the telephone search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that it had a record of the subject which confirmed only his membership in the Waffen-SS. The Berlin Document Center records indicate that the subject was in the army of an Eastern European country and, when demobilized, worked in hospitals. He later joined the SS Division. Certain other biographical information was included.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 482.2

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain publication. It was alleged that this individual had been responsible for sending many named civilians to slave labour camps and that he had participated in raids to hunt down people for such camps. He also assisted in recruitment for the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname had entered Canada in 1953. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1959. The Department of External Affairs reported that it had no record of the subject. No department had any record of an individual having the identical name as the subject under investigation.

The Commission conducted CPIC and MVB searches against the subject. Both search responses were negative.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the individual who entered Canada died in Canada in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 483

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The

Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission interviewed the individual who submitted the subject's name to B'nai Brith and determined that he had no additional information relevant to the Commission's inquiries.

In addition, the Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 484

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947. The immigrant was reported to be destined for a specific province. All other search responses were negative.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any information other than that already known to the Commission.

The Commission determined that the subject died in Canada in 1972. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 485

This individual was brought to the attention of the Commission by two private citizens. They allege that this individual was involved in war crimes because he has an SS tattoo and ring.

The Commission conducted various checks on the subject's name. The Department of Employment and Immigration reported that the subject entered Canada in 1956.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizens who submitted the subject's name as well as a third potential witness, and determined that they had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record of the subject.

The Berlin Sick Book Depository reported, however, that it had a record of the subject having served for the last year of the war as a low-ranking SS member in a support role. However, the Commission notes that SS membership in such a capacity is not in itself a war crime, nor was it a bar to entry into Canada in 1956.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 486

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a certain newspaper publication. It was alleged that the subject was a member of the Intelligence Branch in an Eastern European country, and collaborated with the Germans.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1955. The Department of External Affairs reported that the citizen was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the citizen and determined that he was resident in Canada in 1986.

The Commission reviewed materials available from RCMP files which helped to confirm that the immigrant is indeed the subject of the allegation.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Checks with western European sources indicate no documentary evidence of collaboration with the Nazis. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 487

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 488

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 488.1

Name stricken off Master List.

CASE NO. 489

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and Mr. Sol Littman. The sources of information with respect to this individual were certain newspaper publications. It was alleged that this individual played a prominent role in the organization of the Galicia Division of the Waffen-SS. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the

subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that the subject was subsequently granted a certificate of identity.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the subject died in Canada in 1961. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 490

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 491

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 492

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman's only allegation was that the subject's extradition (possibly from a country other than Canada) had been sought by an Eastern Bloc country. Mr. Littman provided no particulars of alleged war crimes or of the extradition request and indicated that he did not think the subject resided in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 493

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private individual. It was alleged that the subject under investigation had been a member of an extremist youth group and was a propagator of anti-Semitic hate literature.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State

reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Both responses were negative. Through further investigations, the Commission determined the subject to be resident in Canada in 1986.

The Commission attempted to locate the individual who submitted the subject's name to the B'nai Brith but was unable to do so.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 494

This individual was brought to the attention of the Commission by the RCMP, whose source of information wished to remain anonymous. The only allegation made was that the subject was a former SS member.

The Commission reviewed material available from the RCMP to determine whether it had any evidence that the subject had committed a specific war crime. All that was evident was that the subject had entered Canada in 1953. Later, the RCMP indicated it had misunderstood the source's information and subsequently withdrew the allegation.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 495

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a foreign diplomat. There was no specific allegation of involvement in war crimes made against this individual, nor was there an allegation that he had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the investigation of National-Socialist crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 496

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was correspondence by Mr. Simon Wiesenthal, which makes reference to the subject, but not with regard to any involvement in war crimes.

The Commission requested the departments of Employment and Immigration, Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1961. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1968. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. The last application indicated that the subject was resident in Canada in 1982.

The Commission reviewed the material available from the Canadian Jewish Congress and determined that the subject's name had arisen in correspondence seemingly irrelevant to the Commission's inquiries.

In the interim, the Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any further information on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 497

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 498

Name stricken off Master List.

CASE NO. 499

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 500

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 501

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject was resident in Canada until 1980.

The Commission was advised by the Berlin Document Center and by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that they each had a record of the subject which confirmed only his membership in the Galician Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socalist Crimes in Ludwigsburg, West Germany, had no record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

Finally, the Commission determined that the subject died in Canada in 1980. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 502

Opinion is in abeyance pending results of external checks.

CASE NO. 503

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of nine civilian party members. There was no specific evidence as to whether the subject entered or became resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission contacted the Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and possible entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

Information was, however, received that an immigrant with a slightly different surname and the same given name had entered Canada in 1946. The Commission ascertained, however, that this immigrant and the subject were not the same person because of differences in their dates of birth, places of birth, nationality and first name of their respective fathers. In any event, the immigrant died in Canada in 1974 and the death certificate is on file.

Therefore, either, as the Commission believes, the subject never set foot in Canada or, if he was the above-mentioned immigrant, he is now deceased.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 504

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that this same person was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 505

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 506

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had said he had been a guard at a concentration camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1927. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1940. The

Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission followed up on information available from RCMP files and determined that the subject was resident in Canada in 1986.

The Commission reviewed records available of an interview of the citizen who submitted the subject's name to the RCMP and found there was no information to indicate how or when the subject might have returned to Europe to carry out the function alleged, nor do the domestic records above provide any such indication.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any further information on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 506.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain publication. It was alleged that this individual had been involved in punishment as part of the Secret Police.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. Telephone directory searches were also conducted. All search responses were negative. In addition, specific information linking the subject to a particular place in Canada could not be confirmed.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 507

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had said he had been born in an Eastern European country and had been a policeman there.

The Commission reviewed materials available from the RCMP and determined that the subject entered Canada in 1948. He was resident in Canada in 1986.

The Commission reviewed materials available from the citizen who submitted the subject's name to the RCMP, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of Nazi war crimes against the subject. Neither is there an allegation that as a policeman in Eastern Europe he may have committed a particular war crime.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 508

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 509

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. It was alleged that this individual had participated in punitive expeditions in an Eastern European country and that he resided in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission's efforts to locate the subject in Canada produced negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 510

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and indicated that he was missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 511

This individual was brought to the attention of the Commission by the RCMP and the Canadian Security Intelligence Service (CSIS). They were using the subject as a source of information when they became suspicious about his involvement with the Waffen-SS in an Eastern European country and his later entry into Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

Documents from the Berlin Document Center indicate that indeed, the subject served with a particular regiment of the Waffen-SS in an Eastern European country in 1944.

However, on the basis of the foregoing, no evidence of participation in war crimes beyond membership in the Waffen-SS is available. Without such evidence, and without even an allegation of a specific war crime, mere membership in the Waffen-SS is insufficient to establish a *prima facie* case for the Commission's purposes, according to the same reasoning as discussed in chapter I-8 of this Report (see finding no. 59) pertaining to the Galicia Division.

On the other hand, there is clear evidence that the subject was admitted to Canada when voluntary Waffen-SS members should still have been precluded from entry. He obtained IRO sponsorship, but it also indicates he must have withheld information on his Waffen-SS service to get by not only Canadian screening, but IRO screening as well. Furthermore for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **The subject should be summoned by the appropriate authorities for interrogation on his wartime activities as well as on the circumstances leading to his immigration and citizenship.**

2- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, then there remains no other alternative but to close the file.**

3- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a decision taken as to a possible prosecution.**

4- **Should no incriminating evidence become available, the Canadian government should consider the advisability of pursuing revocation of citizenship and deportation of the subject, based on his failure to disclose his SS history.**

CASE NO. 512

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 513

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a news release. It was alleged that this individual had participated in extermination operations against citizens.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 514

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain former security files which were being reviewed by the force. It was alleged that this individual had been a member of a paramilitary fascist organization and had participated in a specific incident which culminated in the slaughter of several thousand Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and similar first name entered Canada in 1951. The Department of the Secretary of State reported that this same individual, whose first name by now matched that of the subject under investigation, filed a Declaration of Intention in 1952. The Department of External Affairs reported that it had no record of the subject.

In addition, in 1985 the Commission wrote to the Centre de documentation juive contemporaine in Paris requesting any information that the centre had on the activities of the paramilitary fascist organization in general and a number of named individuals, including the subject under investigation. There was no response to that letter.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission conducted CPIC, MVB and Vital Statistics searches against the subject with negative results. On further investigation the Commission ascertained that the subject had emigrated to another country and had become a citizen of that country in 1964.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 515

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The Commission was also informed that the subject died in another country in 1980.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 516

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 517

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of unknown origin provided by the Canadian Jewish Congress. It was alleged that, as a policeman, this individual had participated in the execution of civilians.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject which indicated only that a previous request for information had been received from Mr. Simon Wiesenthal. The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 518

This individual was brought to the attention of the Commission by a private individual. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission's investigators interviewed the source, who confirmed that he had no evidence that the subject had committed war crimes.

The Commission determined that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 519

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 520

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman made no specific allegation against the subject and when contacted by the Commission could provide no additional information regarding either an allegation or the subject's place and date of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1949. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of this individual.

Further checks of police and motor vehicle records and investigations by the Commission's staff revealed that the individual with a similar name was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available. The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 521

This individual was brought to the attention of the Commission by a private citizen, whose source of information was unspecified. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The complainant was interviewed, but had no additional information as to the subject's whereabouts or alleged crimes.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 522

This individual was brought to the attention of the Commission by the RCMP, which had been made aware of the subject's trial *in absentia* for war crimes in an Eastern European country. In addition, the Commission was advised by the Department of External Affairs that an Eastern Bloc country had named this individual in diplomatic correspondence. It was alleged that this individual was the chief of a police precinct in an Eastern European country and was responsible for numerous deaths.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1962. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission determined that the subject died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 523

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an old Eastern Bloc list of undetermined date. It was alleged that the subject under investigation had been involved as a policeman in 1941-1943 in punitive actions against civilians and the execution of one civilian.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar surname and identical first name as the subject under investigation entered Canada in 1948. The departments of the Secretary of State and of External Affairs reported that they had no record of the subject.

The Commission conducted CPIC, MVB, Vital Statistics and other searches against the subject under all names provided to the Commission, with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported only that Mr. Simon Wiesenthal had submitted a request for information regarding the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against this subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 524

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were various newspaper articles and a radio broadcast. It was alleged that the subject served at the SS Headquarters during the Nazi occupation of an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted MVB and other searches against the subject. The MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Commission checks in western Europe produced no documentary evidence of involvement with the SS. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 525

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 526

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. It was alleged that the subject under investigation might be Dr. Josef Mengele.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The departments of Employment and Immigration and the Secretary of State reported negative search results. The Department of External Affairs reported that it had a record in respect of the individual, but that the individual had been born in 1928 in Canada and had first applied for a passport in 1961.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject. Furthermore, the subject's name is not one of the aliases used from time to time by Josef Mengele.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 527

This individual was brought to the attention of the Commission by the Department of Justice, whose source of information was the Jewish Documentation Center in Vienna. It was alleged that this individual was responsible for the execution of several hundred Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 528

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were articles contained in certain publications. It was alleged that this individual was a guard at a specific Nazi concentration camp, and was responsible for atrocities and murder. It was also alleged that this individual was a member of a punitive detachment involved in extermination operations in a particular region. It was reported that this individual, who was stated to be resident at a specified address in Canada, had been tried *in absentia* in an Eastern Bloc region after the war for war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported positive search results. The Department of Employment and Immigration advised that the subject entered Canada in 1954. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1960. The Department of External Affairs advised that the subject was granted a certificate of identity, and subsequently obtained Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative, while the MVB search produced positive results. The Commission located the subject in Canada in 1985, and confirmed that the location of the subject as specified in the publications was accurate.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former

German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from relevant Eastern Bloc authorities as to the subject's reported trial *in absentia*, nor as to what evidence they may possess in support of the allegations of war crimes made against him.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 529

This individual was brought to the attention of the Commission by numerous parties including the RCMP and the Canadian Jewish Congress, whose source of information was reported to be a list of suspected Nazi war criminals prepared by Mr. Simon Wiesenthal. Apart from the foregoing, there was no specific allegation, or evidence, that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported negative search results.

The Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 530

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 531

This individual, Helmut Albert Rauca, was well known to the Commission. He was originally arrested in Toronto on 17 June 1982 pursuant to an extradition request received from the Federal Republic of Germany. He was ordered extradited to the Federal Republic of Germany by the Supreme Court of Ontario on 4 November 1982. On 12 April 1983 the Ontario Court of Appeal rejected his appeal against the extradition order.

On 20 May 1983 the subject departed Toronto for the Federal Republic of Germany under German escort. On 28 September 1983 the Frankfurt Public Prosecutor's Office filed murder charges against the subject. During the night of 28-29 October 1983 the subject died in Kassel Prison in the Federal Republic of Germany, apparently of natural causes.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 532

This individual was brought to the attention of the Commission by Mr. Sol Littman, who indicated that according to a diplomatic source, the extradition of this individual had been requested by an Eastern Bloc country. Apart from the foregoing, there was no specific allegation, or evidence, that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1960. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1965. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission conducted inquiries with both the departments of External Affairs and Justice and was advised that the Canadian government had not received an extradition request with respect to the subject. However, the Commission determined that the United Nations War Crimes Commission files contained charges registered by the Eastern Bloc country against a person or persons having the same surname as the subject. The files did not contain sufficient information to permit the Commission to conclude that the charges related to the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc**

government or to the appropriate archival centres, the file ought to be closed.

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 533

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 534

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that the subject under investigation had been involved in killings of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1977. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 535

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's

assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 536

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was a member of the SS. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject had entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission contacted a representative of the Canadian Jewish Congress and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the

Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Berlin Document Center that it had a record of the subject which indicated he was registered as a Volksdeutscher in 1942. He served in the Deutscher Selbstschutz, a police formation composed of Volksdeutsche which was subordinated to the Higher SS and Police Leader South.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against a person having a similar surname as the subject. The allegation provided sufficient information to permit the Commission to conclude that the charges are not related to the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Deutscher Selbstschutz is available. Without such evidence, mere membership in the Deutscher Selbstschutz is insufficient to establish a *prima facie* case for the Commission's purposes.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 537

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was possibly a member of a specific police force or the Galician Division and had been involved in the execution of the Jewish inhabitants in a particular city. Mr. Littman provided no evidence in support of this allegation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, been granted Canadian citizenship or acquired a Canadian passport. The results of these checks were negative.

The Commission also confirmed that the Berlin Document Center had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 538

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were a publication and the Canadian Jewish Congress. In turn, the source of information of the Canadian Jewish Congress was a publication originating in another country. It was alleged that this individual was a member of the Sonderkommando who participated in extermination operations in specific places in an Eastern European country, and the suppression of a ghetto uprising at a specified place. It was alleged that thereafter he fought partisans in another Eastern European country.

The subject was reported to be resident at a specified address in Canada in 1963. The Commission determined that an RCMP investigation in 1963 had failed to locate the subject at the address specified.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches against the subject. All search responses were negative. However, the Commission determined that a person of the same nationality, and with a similar name and date of birth entered Canada in 1951. The Commission was advised by the Department of the Secretary of State that the immigrant was granted Canadian citizenship in 1981. The Department of External Affairs reported negative search results in respect of the immigrant/citizen.

The Commission conducted an MVB search against the immigrant/ citizen and determined him to be resident in Canada in 1985. Nevertheless, the Commission was unable to conclude that the subject and the immigrant/citizen were one and the same person.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of either the subject or the immigrant/citizen.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate**

archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

CASE NO. 539

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that this individual was a Nazi collaborator in an Eastern European country during World War II.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 540

Opinion is in abeyance pending results of external checks.

CASE NO. 541

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private individual. It was alleged that the subject under investigation rounded up Jews in an Eastern European city and signed death sentences.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having the same surname and a similar first name entered Canada in 1950. The Department of the Secretary of State reported that this same individual, whose first name by then matched that of the subject under investigation, was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission attempted to locate the individual who submitted the subject's name to the B'nai Brith but was unable to do so.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken depending upon the results of such inquiry.**

CASE NO. 542

Opinion is in abeyance pending results of external checks.

CASE NO. 543

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a newspaper article. It was alleged that this individual was a member of a paramilitary organization in an Eastern

European country. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that an immigrant from an Eastern Bloc country with a similar name entered Canada in 1951. The departments of the Secretary of State and External Affairs reported negative search results in respect of the subject.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission was advised by Mr. Littman that the subject was deceased. The newspaper article referred to by Mr. Littman as his source of information also indicated that the subject was deceased. The Commission confirmed that the subject died in a foreign country in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 544

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. The subject was alleged to have served in the police during the Nazi occupation, and participated in the shooting of civilians.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. Although positive responses were received from all departments in respect of persons with similar names, the Commission did not receive any information which permitted it to conclude that the persons named in the responses were one and the same as the subject.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record of the subject which disclosed only that his whereabouts were unknown, and that he had been named in a list which originated with Mr. Simon Wiesenthal.

The Commission determined that Mr. Simon Wiesenthal was unable to provide any additional information on the subject.

The Commission requested additional information with respect to the subject from the relevant Eastern Bloc country. As of 30 September 1986 no additional information has been received from this country in response to the Commission's request.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 545

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject collaborated with the Germans and was a nationalist leader. When contacted by the Commission, Mr. Littman advised that the extent of the subject's involvement in war crimes was unknown and that he had no direct evidence against the subject. Mr. Littman was also unable to provide any information regarding the subject's place and date of birth.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that several individuals with names similar to that of the subject had entered Canada. The Department of the Secretary of State reported that one of these individuals was granted Canadian citizenship in 1959. The Department of External Affairs reported that it had no record of the subject or any of the individuals with similar names.

Further checks with police and motor vehicle registration records revealed that the individual with a similar name who was granted citizenship was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former

German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available. The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 546

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The response from the Department of External Affairs was negative.

The Commission interviewed the citizen who submitted the subject's name to B'nai Brith, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Berlin Sick Book Depository, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 547

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 548

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 549

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS). There was no specific allegation of involvement in war crimes made against this individual. CSIS advised the Commission that its source of information was an inventory of files on relations between certain foreign intelligence organizations after the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. A positive search response was received only from the Department of Employment and Immigration indicating that a person with a name identical to the subject's had entered Canada in 1951. On the basis of the information received, the Commission was unable to conclude that the immigrant and the subject were one and the same person.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 550

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs from the authorities of an Eastern Bloc country. It was alleged that as a commander of a paramilitary detachment in an Eastern European country, he participated in the executions of certain named persons. This individual was reported to be living in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission determined that the individual was not living at the address specified by the authorities of the relevant Eastern Bloc country. Inquiries conducted by the Commission were unsuccessful in locating the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission requested additional information with respect to the subject from the relevant Eastern Bloc country. As of 30 September 1986, no additional information had been received in response to the Commission's request.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 551

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a bulletin published by Mr. Simon Wiesenthal. It was alleged that as a member of either the police or the Galicia Division of the Waffen-SS, this individual had participated in the killing of Jews in a specified city. Mr. Littman advised the Commission that this individual was resident in a specified city in a foreign country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 552

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration and the Secretary of State to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship. The Department of Employment and Immigration reported eight entries with similar name as subject. Two of these persons were born in Western Europe but one individual, born in 1930, is too young to be considered a war criminal. The other individual stated that he was born in 1921. The Department of the Secretary of State reported that the individual born in 1921 was granted Canadian citizenship in 1974.

The Commission conducted an MVB search and determined that the subject was born in 1920 and was residing in Canada in 1986 as indicated by the anonymous source.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against persons having the same surname as the subject. However, the files did not contain sufficient information to permit the Commission to conclude that the charges are related to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 553

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was said to have participated in a public ceremony held to mark the formation of the Galicia Division in 1943 at a specified city. Mr. Littman made no specific allegation against the subject and provided no evidence of war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1948. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1953. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission confirmed that the Berlin Document Center has no record on the subject.

The Commission also confirmed that the subject died in Canada in 1966. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 554

This individual was brought to the attention of the Commission by the RCMP, whose source of information was certain newspaper publications. These publications alleged that the subject collaborated with Nazi forces and was suspected of war crimes. No specific allegation was made nor was any evidence of war crimes given.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1949. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1954. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission was advised that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

The Commission also confirmed that the subject died in Canada in 1986. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 555

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence from a private individual. It was alleged that the subject under investigation had changed his name when he came to Canada from a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission attempted to locate the individual who submitted the subject's name but was unable to do so as there was no one by the same name who had lived at the address given on the correspondence. The address proved to be a business, the owner of which stated that the store had existed for several years and further that he had never heard of the complainant. Other attempts to locate the complainant were to no avail.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 556

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Further investigation revealed that the individual died in a foreign country in 1971.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 557

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 558

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 559

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications and materials published by Mr. Simon Wiesenthal. It was alleged that the subject was a member of a group in an Eastern European country and as such participated in the execution of Jews in that country. The Commission asked Mr. Simon Wiesenthal for, but did not receive, evidence of the subject's alleged war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1949. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1960. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission was advised that the Berlin Document Center has no record of the subject. The Commission was also advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that its record on the subject indicates only that the subject was named as a possible war criminal in an Eastern Bloc publication. This publication was reviewed by the Commission and was found to contain no further evidence of alleged war crimes.

The Commission also confirmed that the subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 560

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject had assisted in the killing of Jews in an Eastern European country. When contacted by the Commission, Mr. Littman advised that he was unable to provide any further information or evidence.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that two individuals with names similar to that of the subject entered Canada in 1951. The Department of the Secretary of State reported that one of these individuals was granted Canadian citizenship in 1960. The Department of External Affairs reported that it had a record with respect to the individual who was granted citizenship in 1960.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that both individuals with names similar to the subject's were residents in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former

German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record on the subject.

The first question to be resolved is that of identification: the two immigrants should be questioned to find out which one, if either, may be the subject involved in the event in the relevant Eastern European country.

On the other hand, on the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegation of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres in the relevant country, the file should be closed.**

2- **Should the Government of Canada decide to pursue the matter, the following steps should be taken:**

   a) **The two 1951 immigrants should be summoned for interrogation by the appropriate authorities in order to find out which one, if either, may be the subject involved in the events alleged against him;**

   b) **The Government of Canada should submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres.**

3- **The file should be re-assessed and a final decision taken, depending upon the results of those inquiries.**

CASE NO. 561

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that the subject was responsible for the deaths of "hundreds of Jews". No specific evidence of the alleged war crimes was provided.

Records of the Department of Employment and Immigration provided to the RCMP and reviewed by the Commission indicate that the subject was born in 1941 and entered Canada from a foreign country in 1981. For that reason, it was determined that he could not have been involved in war crimes between 1939 and 1945.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 562

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was certain newspaper publications. No specific war crimes were alleged against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission received negative search results in respect of citizenship and passport. The Department of Employment and Immigration reported that the subject entered Canada in 1958.

In 1972 the individual was arrested in a foreign country as an alleged guard at a specific concentration camp. As Canada does not maintain exit controls in respect of landed immigrants, there is no record of departure, although the relevant foreign country would have a record of the individual's entry into that country. In the ensuing denaturalization proceedings, the individual voluntarily agreed to relinquish citizenship and was extradited to a West European country. Following a trial for murder, the individual was convicted and sentenced to life imprisonment.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 563

This individual was brought to the attention of the Commission by a foreign authority which made no specific allegation concerning the subject and advised only that the subject's application for entry into this foreign country was rejected in 1950 on the grounds that an investigation done at that time revealed allegations that the subject had been a member of a specified unit in an Eastern European country and a concentration camp guard in the same country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject had obtained a Canadian passport.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the subject was a resident in Canada in 1986.

The Commission also obtained information from the foreign authority on the subject which contained no further particulars of the allegation or evidence in support thereof.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the relevant Eastern European authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres, the file should be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 564

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Further investigation revealed that the individual died in a foreign country in 1977. A copy of the death certificate has been obtained by the Commission.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 565

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 566

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Further investigation revealed that the individual died in a foreign country in 1983. A copy of the death certificate has been obtained by the Commission.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 567

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The response from the Department of External Affairs was negative.

The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the B'nai Brith and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 568

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that the subject was responsible for the execution of Jews in an Eastern European country. No specific evidence of the alleged war crimes was provided, but it was reported that the subject resided at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission confirmed that the subject does not reside at the address provided by the Canadian Jewish Congress.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 569

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an Eastern Bloc citizen who had transmitted his allegation to the Canadian Jewish Congress. It was alleged that the subject had been involved in war crimes as a police inspector in an Eastern European country. No particulars and no information regarding date and place of birth were provided.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1949. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of this individual.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that the individual with a similar name to that of the subject was a resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reason noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to appropriate archival centres, the file should be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government or to appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 570

Name stricken off Master List.

CASE NO. 571

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications and the Canadian Jewish Congress. It was alleged that the subject organized mass executions of civilians in Eastern Europe. No evidence of the alleged war crimes was provided, but the subject was reported living at an unspecified address in Canada. Similar allegations were made to another foreign authority which in turn contacted the Commission. Commission investigators contacted the foreign source who was unable to provide further evidence beyond that which was already available to the Commission.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person with a name similar to that of the subject entered Canada in 1950. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1963. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission was advised that the Berlin Document Center has no record of the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised that its record on the subject indicates only that the subject has been named by Mr. Simon Wiesenthal as an alleged war criminal. The Commission asked for, but did not receive, further information from Mr. Wiesenthal.

The Commission has also confirmed that the subject died in Canada in 1981. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 572

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of a person with the same name but a much different date of birth who had been a member of the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 573

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 574

Name stricken off Master List.

CASE NO. 575

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed that he had served in an unnamed police force, winning two awards during the course of this service, prior to joining the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 576

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a newspaper publication. There was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 577

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals submitted to the Department of External Affairs by the Minister of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative, and the Commission was advised by the foreign officials that they had no evidence that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 578

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. All search responses were negative. Further investigation revealed that the individual died in a foreign country in 1981.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 579

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country in 1980. This subject was alleged to have participated in the shooting of citizens in Eastern Europe during the Nazi occupation and was reportedly living at an unspecified address in Canada.

Checks with the departments of Employment and Immigration, the Secretary of State and External Affairs revealed that the subject entered Canada in 1951. The Department of the Secretary of State advised that the subject was granted Canadian citizenship in 1958. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission has also confirmed that the subject died in Canada in 1986. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 580

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals submitted to the Department of External Affairs by the authorities of an Eastern Bloc country in 1980. It was alleged that the subject was a deputy chief of police in an Eastern European city and that he took part in the shooting of citizens; however, no evidence in support of this allegation was provided. The subject was alleged to be living under an assumed name at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, tje Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person using the assumed name provided by the Eastern Bloc authorities, but having a different date of birth, entered Canada in 1950. The Department of the Secretary of State advised that the same person was granted Canadian citizenship. The Department of External Affairs advised that the same person did not obtain a Canadian passport.

The Commission was advised by the the Berlin Document Center that it had no record on the subject or under the assumed name provided by the Eastern Bloc authorities.

The Commission has also confirmed that the person with the assumed name provided by the Eastern Bloc authorities died in Canada in 1979. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 581

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and indicated that he was missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 581.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes against this individual. Rather, the allegation was that the subject stole supplies at a Displaced Persons camp after the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject had entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the RCMP, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 582

Name stricken off Master List.

CASE NO. 583

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative, and the Commission was advised by the foreign officials that they had no evidence that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 584

This individual was brought to the attention of the Commission by anonymous correspondence. It was alleged therein that the subject had worked in a munitions factory during the war and that he had killed soldiers during the 1944 invasion of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission conducted investigations in the subject's neighbourhood which served to dispel suspicions voiced in the anonymous correspondence.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 585

This individual was brought to the attention of the Commission by an anonymous source. It was alleged that this individual was a prisoner of war of German descent (Volksdeutsche), and that he served at a staff SS training camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The response from the Department of External Affairs was negative.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was informed by the Berlin Document Center that it had a record of the subject which confirmed the substance of the allegation against him and his whereabouts during the war. Specific details were recorded.

The Commission received from a foreign police authority, a West German decision which provides specific information with regard to the subject. Moreover, proceedings against the subject were discontinued for lack of evidence in accordance with s. 152 (2) of the (German) Code of Criminal Procedure:

> (Translation)
>
> 152. [Prosecuting Body, Legal Basis].
>
> (1) It is up to the State Prosecutor's Office to lay public charges.
>
> (2) It is obliged, in the absence of other legally designated bodies, to intervene with regard to all crimes worthy of prosecution, insofar as sufficient factual support is available.

After a thorough investigation, the Commission determined that the subject died in 1977.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 586

Opinion is in abeyance pending results of external checks.

CASE NO. 587

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In

addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

The Commission was also informed that the subject died in a foreign country in 1984.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 588

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was an anonymous phone call. There was no specific allegation of involvement in war crimes against this individual, but it was rumoured that he had a Nazi past and a swastika tattoo.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted investigations and determined the subject to be resident in Canada in 1986.

The Commission attempted to trace the citizen who submitted the subject's name to the Canadian Jewish Congress but was unable to do so.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

The Commission ascertained that the Berlin Document Center, the Berlin Sick Book Depository and the German Military Office for notifying the next of kin of members of the former German Wehrmacht in Berlin, have records indicating that the subject was engaged in an army hospital in a West European city. He had been a member of the Nazi Party. However, no records indicate any evidence to support a suspicion of involvement in a particular war crime.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 588.1

This individual was brought to the attention of the Commission by the RCMP, who were investigating the suspicions of the Department of Employment and Immigration officials that the individual might be older than he claims and might be hiding a questionable past, which may have involved the Nazi Party.

The Department of Employment and Immigration had no records of the immigrant's landing which led in part to its suspicions. The individual was seeking to be granted Canadian citizenship based on the partial documentation he still had. Materials documenting a recent interview of the subject indicate he claims to have landed in Canada in 1956.

The Commission reviewed information available from extensive investigations which had been carried out by the RCMP in Canada and in a West European country by way of judicial assistance. It was verified therein, that the subject is indeed who he claims to be and that he was indeed born in 1929. He was barely 10 years old at the start of the war. This laid to rest the main premise for any suspicions of Nazi involvement or the possibility of war crime involvement. The immigration officials have decided to recognize the subject's landed immigrant status. He is free to put forward their new documentation in his citizenship application.

The Commission confirmed that the subject is resident in Canada in 1986.

In the interim the Commission confirmed as well that neither the German Military Office for notifying the next of kin of members of the former German Wehrmacht in Berlin, the Berlin Sick Book Depository, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany had any record of the subject.

The Commission checked United Nations War Crimes Commission files and came to the conclusion that none of them could pertain to the subject because of the new evidence which had come to light confirming his young age.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 589

This individual was brought to the attention of the Commission by a private citizen. The only allegation initially made was that the subject was a Nazi who had contact with people from a South American country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that it had numerous visitor records indicating that the subject has permission to work in Canada, but that he has not applied for landed immigrant status. He travels using a European passport.

The Commission reviewed the RCMP file and determined that they had no evidence to support any suspicion that the subject had committed a war crime. Further, the recent date of birth in 1928 makes involvement in war crimes doubtful.

The Commission also confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 590

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1985. The Department of External Affairs reported it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-

Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also checked with the United Nations War Crimes Commission and ascertained that several governments had made allegations of the commission of war crimes by one or more individuals having the same surname and in some cases the same first name as the subject under investigation. However, as the subject's name is relatively common and as no specific allegation was made against him, further investigation of the UN files is not warranted. Moreover, the Commission investigators ascertained that the only reason that the complainant reported the subject to the RCMP was that the subject was in possession of wartime memorabilia of the German army.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 591

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list which was submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from officials of the relevant country to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative, as there was insufficient information available. There was no indication of a given name or date of birth.

The Commission was advised by the West European officials that they had no evidence that the subject had entered Canada.

The Commission reviewed material available from the RCMP and determined that they had no evidence to support the suspicion that the subject had committed a war crime.

At the same time, the Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 592

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had driven a truck used to gas Jews during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission determined the subject to be resident in Canada in 1986.

The Commission reviewed RCMP materials of an interview of the citizen who submitted the subject's name to the RCMP and determined that he had no additional information relevant to the Commission's inquiries.

The Commission determined that the United Nations War Crimes Commission files made no reference to the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 593

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list which was submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from officials of the relevant country to indicate that the subject had entered Canada.

The Commission reviewed material available from the RCMP and the Canadian Security Intelligence Service (CSIS) and determined that they had no evidence of the subject's entry into Canada and no evidence to support any suspicion of war crimes. It then requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by the West European officials that they had no evidence that the subject had entered Canada.

At the same time, the Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 594

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 595

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1972. The departments of the Secretary of State and External Affairs reported that they had no record in respect of the subject. The CSIS file indicated that the subject had entered Canada prior to 1972 and had gone to a West European country in 1959 returning to Canada in 1970 (sic).

The Commission conducted credit checks and an MVB search against the subject. Both search responses were positive. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository, reported that they had records of the subject which indicated only his membership in the Wehrmacht.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 596

This individual was brought to the attention of the Commission by the RCMP, whose information originated with Mr. Simon Wiesenthal and a warrant of arrest from a West European country. Numerous specific allegations of intimidation, extortion, robbery and murder in an Eastern European country are described.

The Commission reviewed material available from the RCMP and the Canadian Security Intelligence Service (CSIS) to determine if they had any evidence that the subject had at any time entered Canada. As these checks were negative, the Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC, MVB and other searches. All search responses were negative.

The Commission reviewed the investigations carried out by the RCMP over the last decade. Finally, after investigating every last lead left open, the Commission concluded that the subject never entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 596.1

Opinion is in abeyance pending results of external checks.

CASE NO. 597

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 598

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that he was reported missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 599

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual in Canada. The only allegation made was that the subject was a war criminal because he was an eccentric and suspicious person of German background.

The Commission reviewed materials available from the source and the departments of Employment and Immigration and External Affairs and is satisfied that the subject is resident in Canada in 1986. The Department of Employment and Immigration reported that the subject entered Canada in 1929.

The Commission reviewed materials available from the RCMP and determined that they contained no evidence to support the suspicion that the subject had committed a war crime. At the same time, the Commission confirmed that the Berlin Document Centre had no record in respect of the subject. There is no indication the subject returned to Europe during the war years.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 600

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS. The Central Office of Land Judicial Authorities for the

Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, advised that it has no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 601

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 602

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 603

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country, and also by Mr. Simon Wiesenthal. It was alleged that this individual had served as a police chief in Eastern Europe and had participated in the execution of civilians and was thereafter resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of either the immigrant or the subject.

The Commission conducted CPIC and MVB searches against the subject with negative results. It determined, however, that the immigrant was resident in Canada in 1986.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject, nor is there enough information to identify the immigrant as the subject. Checks with western European sources lead to no documentary evidence of any connection with the Nazis, nor to any evidence to establish identification. However, for the reasons noted in chapter I-5 of this Report : "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence to identify the immigrant as the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the immigrant to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the immigrant's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 604

This individual was brought to the attention of the Commission by the RCMP, whose source of information was an anonymous letter. It was alleged that the subject executed scores of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1958. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted extensive investigations and determined the subject to be resident in Canada in 1986.

The Commission attempted, without success, to locate an alleged witness named in the anonymous letter.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Checks with western European sources lead to no documentary evidence. However, for the reasons noted in chapter I-5 of this Report: "Methodology", and because the source of the allegation was anonymous, the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 605

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. It was alleged that the subject, originally from one Eastern European country, had been a supervisor in a concentration camp in another Eastern Bloc country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results, except Immigration which produced the names of three individuals all of whom have the same name, but all of whom were born abroad.

The Commission's investigators interviewed the source of this complaint who stated he had worked in a business with this individual and confirmed that the individual was a former supervisor at a concentration camp in Eastern Europe. A check with the employer revealed that no one having the name in question had ever been employed there. On the basis of this and other information provided by this source relating to another individual which the Commission was able to satisfy itself was not true, the Commission has serious reservations about the reliability of the source's allegations.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 606

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of Jewish citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission's efforts to locate the subject at the address specified produced negative results.

The Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 607

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had directed the shooting of citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 608

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject served as a "policeman" from 1941 to 1944 and executed six Jewish civilians in 1942. Mr. Littman provided no evidence of the allegations but indicated that the subject was reported living at an unspecified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative. Further checks with police and motor vehicle registration records were also negative.

The Commission confirmed that neither the Berlin Document Center, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 609

Name stricken off Master List.

CASE NO. 610

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the execution of citizens during the war, but the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 611

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were a newspaper article and materials sent anonymously to a foreign elected official.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a name similar to the subject's alleged alias entered Canada in 1947. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record of the individual.

The Commission conducted CPIC and MVB searches against the individual. It determined the individual to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record of the subject or the immigrant.

The Berlin Sick Book Depository reported, however, that a man with a name similar to that of the subject served with an Eastern European paramilitary group in 1943 and 1944. He has the same date of birth as the person who immigrated to Canada whose name coincides with the alleged alias.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the citizen who resides in Canada. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject which might further link the citizen in Canada to the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the Canadian citizen concerned to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the citizen's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

CASE NO. 612

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had served as a guard in two specified concentration camps and that he had helped execute civilians.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

In addition, the Commission contacted relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

At the same time, the Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 613

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual served in the police during the Nazi occupation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1949. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1956. The response from the Department of External Affairs was negative.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Berlin Sick Book Depository nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record in respect of the subject.

The Commission determined that the immigrant died in Canada in 1983. A copy of the death certificate has been obtained by the Commission.

Finally, the Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 614

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private citizen. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission interviewed the individual who submitted the subject's name to the Canadian Jewish Congress, and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 615

Opinion is in abeyance pending results of external checks.

CASE NO. 616

This individual was brought to the attention of the Commission by Mr. Sol Littman. When interviewed by the Commission on 29 November 1985, Mr. Littman indicated that this individual was a member of an extremist Eastern European governing party and is now deceased.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that an immigrant entered Canada in 1950. The search responses received from the Departments of the Secretary of State and External Affairs were negative.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission checked with the Berlin Document Center and determined that there was a record for an individual with the same name as the immigrant.

The Commission concluded that the immigrant and the subject were one and the same. The Commission confirmed that the subject died in Canada in 1953. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 617

Name stricken off Master List.

CASE NO. 618

This individual was brought to the attention of the Commission by the RCMP and the Department of Justice. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The Department of Employment and Immigration reported that the subject had entered Canada in 1948. All other search responses were negative. After a thorough investigation the Commission was unable to locate the subject.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 619

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from West European officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject. The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject which indicated that he was sentenced *in absentia* by a West European court to 15 years imprisonment for war crimes.

In spite of the above information, it is recommended that the file on the subject be closed, since he never entered Canada.

CASE NO. 620

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State

reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. The last two passports were applied for from abroad and the last application indicated that the subject's permanent address was abroad. It also indicated that he had resided outside Canada for prolonged periods of time.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 621

This individual was brought to the attention of the Commission by Mr. Sol Littman and the RCMP, whose source of information was foreign authorities. It was alleged that this individual had been an officer in the Waffen-SS. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this subject.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1959. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that the Berlin Sick Book Depository had no record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had no further information than that already known to the Commission in respect of the subject.

The Commission was advised by the Central Information Office of the Federal Archives in Aachen-Kornelimünster and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht

(WASt) in Berlin, that they had a record of the subject which confirmed his membership in the Waffen-SS.

The Commission was also advised by the Berlin Document Center that it had a record of the subject which indicated his specific posts and whereabouts before and during the war.

The Commission also interviewed a representative of a foreign authority who confirmed some of the information already known to the Commission, but could not provide further information which would implicate the subject as having participated directly or indirectly in specific war crimes in Eastern Europe.

On the basis of the available evidence, no case has been made against the subject that he committed war crimes in Eastern Europe during World War II. Of course, further efforts could be made at seeking evidence, if any there be. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

Furthermore, a particular circumstance — the only one of this kind among all the suspects whom the Commission has been investigating — might be taken into consideration: the subject was over 90 years of age in 1986.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

3- **Prior to taking a decision, the Government of Canada might wish to consider the fact that the subject was over 90 years old in 1986.**

CASE NO. 622

This individual was brought to the attention of the Commission by the RCMP. Foreign authorities requested its assistance in locating the subject, who was a sergeant in the Waffen-SS. They made no allegation of a war crime against the individual, nor did they make a specific suggestion or provide evidence that the subject was resident in Canada; rather, they made a request to check whether he may have entered Canada at one time.

The Commission reviewed material available from the RCMP and is satisfied that the subject never entered Canada. There is no evidence to indicate landing in Canada, nor to support any specific allegation of a war crime. Foreign authorities were satisfied with the handling of their request for information.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 623

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was an anonymous letter to the Canadian Jewish Congress. It was alleged that as the mayor of an Eastern European town, this individual acted as a Gestapo agent in seeking out Jews and "sharing in their murder".

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported negative search results.

The Commission determined that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 624

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the execution of two citizens.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1946. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1981. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1986. The subject was 20 years of age when the war ended.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject only by way of a request for information made by Mr. Simon Wiesenthal.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 625

This individual was brought to the attention of the Commission by Mr. Sol Littman and the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual was a member of a particular military group and had been involved in killings in a concentration camp in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The immigrant was reported to be destined for a specific province. All other search responses were negative.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject and that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no information other than that the subject was named on a list compiled by a particular group in a foreign country.

The Commission determined that the subject died in Canada in 1983. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 626

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 627

This individual was brought to the attention of the Commission by the Canadian Jewish Congress and the RCMP, whose source of information was foreign authorities. It was alleged that this individual had participated in a mass execution of civilians in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The immigrant was reported to be destined for a specific province. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. All other search responses were negative.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject and that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no information other than that already known to the Commission.

The Commission determined that the subject died in Canada in 1980. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 628

Name stricken off Master List.

CASE NO. 629

This individual was brought to the attention of the Commission by the RCMP and the Canadian Jewish Congress, whose source of information was a foreign authority. It was alleged that this individual had participated in a mass execution of civilians in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject only by way of a request for information made by Mr. Simon Wiesenthal.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 630

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that this individual had been a member of the Galicia Division.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and first name entered Canada in 1947. The departments of the Secretary of State and External Affairs reported that they had no records of the subject.

The Commission conducted CPIC and MVB searches against the individual who entered Canada. Though the MVB search response was negative, the CPIC search produced positive results. The individual had been arrested on two occasions on matters not related to the Commission's mandate. On each occasion he had given a slightly different spelling of his surname. Through other investigations, the Commission determined that this individual was living in Canada in 1986 under another variant of his surname.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject or the individual who entered Canada. In addition, the Berlin Document Center had no record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available against the subject. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 631

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 632

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 633

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was the Jewish Documentation Centre in Vienna. There was no specific allegation of involvment in war crimes made against this individual.

The Commission did not request the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks in respect of the subject, since the latter was born in Canada.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information

Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1967. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 634

Name stricken off Master List.

CASE NO. 635

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged only that the subject was a member of "the SS Fraternity" in Canada. No allegation or evidence of war crimes were provided. When contacted by the Commission, Mr. Littman advised that he was unable to provide any further information.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a name similar to that of the subject entered Canada in 1951. The Department of the Secretary of State reported that this individual was granted Canadian citizenship in 1957. The Department of External Affairs reported that this individual had obtained a Canadian passport.

Further checks of police and motor vehicle registration records and investigations by the Commission's staff revealed that this individual was a resident of Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes is available. The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 636

This individual was brought to the attention of the Commission by a number of sources including the Canadian Jewish Congress, the Department of Justice and private individuals. It was alleged that this individual had served as the chief of an Eastern European police force and was personally responsible for the deaths of hundreds of Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 637

Name stricken off Master List.

CASE NO. 638

This individual was brought to the attention of the Commission by the RCMP, whose source of information was anonymous. There was no specific allegation of involvement in war crimes made against this individual, and the information received was spurious.

After studying the RCMP file, the Commission determined that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The RCMP conducted a CPIC search against the subject with negative results. According to his passport application, the subject was resident in Canada in 1983.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 639

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same name but a different date and place of birth entered Canada in 1951. The Department of the Secretary of State reported that the same person was subsequently granted Canadian citizenship in 1958. The Department of External Affairs reported that this same person was subsequently granted Canadian passports. There were no reports from any of these departments with respect to the subject having the date of birth provided by Mr. Wiesenthal.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 640

Name stricken off Master List.

CASE NO. 641

Opinion is in abeyance pending results of external checks.

CASE NO. 642

This individual was brought to the attention of the Commission by the RCMP, whose source of information was anonymous. It was alleged that this individual had been a Nazi commandant during World War II. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also reviewed the United Nations War Crimes Commission files which contained charges against persons having the same surname as the subject. However, the files did not contain sufficient information to permit the Commission to conclude that the charges are related to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 643

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1963. The response from the Department of External Affairs was negative.

The Commission conducted an MVB search and determined that the subject was resident in Canada in 1986.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was also advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS. In addition, the agency submitted to the Commission material from the Land Judicial Authority of Frankfurt, pertaining to two other individuals whose last name is the same as the subject. This surname appears to be very common. The imprecision of the information received does not permit the Commission to conclude that either of these two individuals is the same person as the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available against the subject. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 643.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was an anonymous citizen whose complaint had been recorded by the Dokumentationszentrum in Vienna. It was alleged that the subject was born in a certain town in Eastern Europe and that he had shot the complainant's parents. Presumably the incident took place in the Eastern European country where he was born.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that two persons with a similar name entered Canada, one in 1948, the second in 1951. The Department of the Secretary of State reported that the second was granted Canadian citizenship in 1959. The Department of External Affairs reported that the second was subsequently granted a Canadian passport. Both departments reported they had no records in respect of the first immigrant.

The Commission conducted CPIC and MVB searches and determined the Canadian citizen (the second immigrant) to be resident in Canada in 1986.

The Commission was unable to follow up on the complainant because he is unnamed.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any records of either of the persons who landed in Canada.

The Berlin Sick Book Depository records and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) records show that two further individuals with similar names but with two other dates of birth served in the SS. All four individuals with the same name as the subject seem to come from towns other than the one in which the subject is alleged to have been born.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the citizen who resides in Canada. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject which might link the citizen in Canada to the subject, unlikely as it is.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the Canadian citizen concerned to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the citizen's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 644

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress which, in turn, received information from a private citizen. It was alleged that this individual was suspected of being a former SS at a specified concentration camp. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The response from the departments of the Secretary of State and External Affairs was negative.

The Commission conducted CPIC and MVB searches and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress. The citizen claimed he was born in Canada and was not, therefore, in a position to identify anyone who might have been involved in war crimes.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 645

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a newspaper publication. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 646

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 647

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 648

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was anonymous. It was alleged that this individual had been a member of the SS and has certain connections in South America. Apart from the foregoing, there was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission was informed by the Berlin Document Center that it needed more details to complete its name search.

The Commission was advised by the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that it had a record of the subject which indicated his membership in the Wehrmacht (regular army).

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Wehrmacht is available. Without such evidence, mere membership in the Wehrmacht is insufficient to establish a *prima facie* case for the Commission's purposes.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 649

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a detailed military service record that included membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since however there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 650

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a newspaper publication. It was alleged that this individual had been a member of the Galicia Division of the Waffen-SS. Mr. Littman indicated that this individual was resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain how the subject had entered Canada, and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1959. The Department of the Secretary of State reported negative search results. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. The response received from the Department of External Affairs also indicated that the subject was granted Canadian citizenship in 1965.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division of the Waffen-SS is available. Without such evidence, mere membership in the Galicia Division of the Waffen-SS is insufficient to establish a *prima facie* case for the Commission's purposes as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 651

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 652

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from West European officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission conducted CPIC and MVB searches. All search responses were negative.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin had any record in respect of the subject. The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that it had a record of the subject which indicated he had been accused of shooting a number of Eastern Europeans, in a preliminary investigation which was conducted by the Public Prosecutor's Office of a West European country, but that the charges were dropped in 1970 due to a lack of evidence.

On the basis of the foregoing, it is recommended that the file on the subject be closed, since he never entered Canada.

CASE NO. 653

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had been in charge of a tuberculosis unit in Europe during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject had been granted Canadian citizenship in 1958. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, did have a record in respect of the subject which confirmed that he had been a member of the Wehrmacht. The WASt records disclosed particulars of the subject's transfers between certain units. No information was received from WASt to support an allegation of war crimes against the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 654

Name stricken off Master List.

CASE NO. 655

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a European institutional office. It was alleged that this individual had been involved in neo-Nazi activities in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that an individual with the same surname and a similar first name entered Canada in 1956. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1969. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject and the individual who entered Canada. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the individual who entered Canada to be resident in Canada in 1986.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

However, the Berlin Document Center provided a report on the individual who entered Canada. It indicated that this individual had lived and worked in Europe until the war. Particulars of his actions and whereabouts during the war were also provided.

The strength of his National Socialist convictions is mentioned several times in the documents.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. The matter deserves, however, deeper consideration. But time constraints did not permit the Commission to take the various steps which are indicated by the information already at hand.

The Commission accordingly *RECOMMENDS* THAT:

1- **The subject should be summoned for interrogation by the appropriate authorities.**

2- **Historical research should be conducted into the activities of the companies to which the subject was attached throughout the war.**

3- **The Canadian government should inquire from various West European and Eastern Bloc authorities whether they possess any evidence in support of allegations of war crimes against the subject.**

4- **Depending upon the results brought about by those various steps, the file should be re-assessed and a decision taken on the procedures to be initiated, if any, against the subject.**

CASE NO. 656

This individual was brought to the attention of the Commission by the B'nai Brith, whose source of information was a private individual. It was alleged that the subject under investigation had been an SS officer in a specific role in a certain place in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having an identical surname and a similar first name entered Canada in 1947. The Department of the Secretary of State reported that this same individual was granted Canadian citizenship in 1954. The Department of External Affairs reported that this same individual was subsequently granted a Canadian passport. No department had a record of the subject under the name submitted.

The Commission conducted CPIC and MVB searches against the subject under investigation and the individual who entered Canada. Both search responses were negative. Through other investigations the Commission determined that the individual who entered Canada was resident in Canada in 1986.

The Commission attempted to locate the individual who submitted the subject's name to the B'nai Brith but was unable to do so as the source was anonymous.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 657

This individual was brought to the attention of the Commission by numerous parties, including the RCMP, the Canadian Jewish Congress and Mr. Sol Littman. The sources of information in respect of this individual were a publication and Mr. Simon Wiesenthal. It was alleged that as a police chief in an Eastern European country during the Nazi occupation, this individual had participated in a number of executions.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1980. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 657.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a certain publication. It was alleged that this individual had murdered and tortured citizens.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results. It investigated the alleged Canadian address and discovered that it was unfounded.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 658

This individual was brought to the attention of the Commission by Mr. Sol Littman and the Canadian Jewish Congress. Mr. Littman indicated that he had no specific allegation or evidence that this individual had been involved in war crimes, and that the source of his information was the Canadian Jewish Congress. The Canadian Jewish Congress indicated that this individual was alleged by an unnamed source to have been a member of the Gestapo in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject had been granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission located the subject in Canada in 1986.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record of the subject.

The Commission determined that the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository, had records in respect of the subject which disclosed only that he was a member of the Luftwaffe.

The Commission received no information to support an allegation of war crimes against the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate

archival centres, the matter ought to be re-assessed and a final decision taken depending upon the results of such inquiry.

CASE NO. 658.1

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that this individual had served as a civic authority in Western Europe until 1945 and had been solely responsible for all political and economic affairs, including mobilization of forced labourers within a specified district.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1977. The Department of the Secretary of State and the Department of External Affairs reported that they had no records of the subject.

Through various investigations the Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, were able to provide specific biographical, pre-war and wartime service details outlining the subject's activities. Some of that information came from another foreign authority.

It is clear from the foregoing reports that the subject was an active supporter of the Nazi Party and was involved in administrative, military and legislative aspects of the Third Reich from its inception. Although there is no evidence of war crimes on the face of these reports, the subject's involvement is too prolonged and extensive merely to close the file.

The Commission therefore *RECOMMENDS* that:

1- **A complete history, covering the period relevant to the subject, should be compiled of the activities of all the Nazi organizations to which the subject belonged.**

2- **The subject should be summoned for interrogation by the appropriate authorities in order to determine what his actual job functions were**

in the various positions he held from 1922 through to the end of the war.

3- **The matter should be re-assessed and a final decision taken, depending upon the results of those inquiries.**

CASE NO. 659

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had an SS tattoo under his right arm. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1967. The Department of External Affairs had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission determined that the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, did have a record of the subject which disclosed only that he had been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 660

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of suspected war criminals that was submitted to the Department of External Affairs by the Ministry of Justice of a West European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results. Further checks with police and motor vehicle registration records were also negative and the Commission was advised by West European officials that they had no evidence that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 661

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject engaged in experiments at a specified concentration camp. Mr. Littman provided no evidence of alleged war crimes and indicated that, according to his information, the subject was presently residing in a foreign country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that the subject was named an official of a research institute during the war. The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 662

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs provided correspondence indicating that the subject's wife had requested passport application forms in 1954. No application was actually submitted.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 663

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 664

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no specific allegation of war crimes made in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration provided records for six individuals having the same surname but different first names. The

Department of the Secretary of State provided records for one of those six individuals. The Department of External Affairs provided records for three individuals, two of whom had Canadian citizenship.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of any of the individuals for whom the Commission had records noted above.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 665

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by authorities of an Eastern Bloc country. It was alleged that as a policeman this individual had participated in the shooting of citizens during the Nazi occupation and was thereafter resident in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1976. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 666

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was unspecified. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State and the Department of External Affairs reported that they had no record of the subject.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Berlin Sick Book Depository had any record in respect of the subject. The Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, advised that they had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen SS.

The Commission determined that the subject died in Canada in 1977. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 667

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that this individual had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with the same name but a different date of birth entered Canada in 1948. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1954. The Department of External Affairs reported negative search results. The Commission was unable to conclude that the subject and the immigrant/citizen were one and the same person.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

The Commission determined that the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository had records of the subject. However, by comparing these records with the citizenship application received from the Department of the Secretary of State, the Commission was able to conclude that the subject and the immigrant/citizen were not one and the same person.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 668

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 669

This individual was brought to the attention of the Commission by a private citizen. It was alleged that the subject is a former SS officer and is pro-Nazi.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission followed up on information provided in the denunciation and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who had submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed with the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that the subject had indeed been a member of a Waffen-SS tank battalion.

However, further checks confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. At the time he entered Canada some non-German former Waffen-SS members were being allowed into the country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 670

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged that this individual had been a guard in a concentration camp in an Eastern European country during World War II and had been responsible for the murder of inmates.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported negative search results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission conducted an MVB search with positive results. The subject was determined to have been resident at a specified address in Canada, though his driver's license was not renewed in 1985. Thereafter, the Commission determined that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 671

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a Canadian police force. The individual himself bragged about his supposed involvement in war crimes in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was later refused Canadian citizenship for reasons the Commission finds are unrelated to its inquiry.

The Commission updated information available from a review of the RCMP file and determined the subject to be resident in Canada in 1986.

The Commission consulted with the relevant police force and determined that the subject is mentally deranged and that his self-incriminations are false.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt), the Berlin Sick Book Depository, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, all in West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 672

Name stricken off Master List.

CASE NO. 673

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository, that they had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 674

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 675

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were the Canadian Jewish Congress and Mr. Sol Littman. It was alleged that the subject had been a member of a fascist paramilitary unit.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission reviewed a lengthy statement made by the subject himself in 1980. In it he admitted to membership in a national students' political group in his student days, and of eventual involvement with another group as a political movement only. He denied any association with the fascist paramilitary organization per se.

The Commission also reviewed materials available from the original sources and found evidence of an identity card confirming the subject's admissions. However, there was no additional information relevant to the Commission's inquiries.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against this subject.

The Commission accordingly *RECOMMENDS* that:

1. **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2. **Should, however, the Government of Canada decide to submit the name of the subject to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 676

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper articles. It was alleged that the subject had been a member of a nationalist fascist paramilitary organization.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 677

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign intelligence document in which he was alleged to have been a member of a fascist organization which conducted an anti-Semitic revolt in an Eastern European country. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted an MVB search against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 678

This individual was brought to the attention of the Commission by numerous parties, including the RCMP and the Canadian Security Intelligence Service (CSIS). By correspondence to the Honourable Robert Kaplan, P.C., M.P., Mr. Simon Wiesenthal alleged that this individual was responsible for the murders of two named persons in an Eastern European country in 1940. It was also alleged that this individual was a member of a fascist paramilitary unit.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

The Commission determined that the subject died in Canada in 1983. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 679

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 680

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 681

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 682

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P. by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that this individual had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an immigrant with a similar name and date of birth entered Canada in 1949. The departments of the Secretary of State and External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission determined through a confidential source that a person with a name and date of birth similar to the subject's was resident in Canada in 1986. However, the Commission was unable to conclude that the subject was one and the same as either the Canadian resident or the immigrant.

The Commission determined that the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had records of the subject. The records confirmed the subject's membership in the Galicia Division of the Waffen-SS. However, the records do not contain any information which permitted the Commission to advance its inquiry as to whether the subject was resident in Canada.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Berlin Sick Book Depository had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division of the Waffen-SS is available against an individual who has not been found in Canada. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 683

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 684

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 685

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 686

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a newspaper reporter. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that the neither Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin nor the Berlin Sick Book Depository, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 687

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a foreign authority. This individual was alleged to have been a member of a fascist organization which led an anti-Semitic uprising in an Eastern European country. Apart from the foregoing, there was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission determined that the subject had entered Canada in 1950, and was granted Canadian citizenship in 1956. The Commission also determined that the subject was subsequently granted Canadian passports. The Commission conducted an MVB search against the subject with positive results and located the subject in Canada in 1986.

The Commission determined that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission confirmed that the foreign authority did not have any additional information with respect to the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought to be re-assessed and a final decision taken depending upon the results of such inquiry.**

CASE NO. 688

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 689

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 690

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was a member of a specified military unit and was involved in the execution of Jews. Mr. Littman provided no evidence of alleged war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record on the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 690.1

Opinion is in abeyance pending results of external checks.

CASE NO. 691

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative. Further investigation revealed that the individual died in a foreign country in 1984.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 691.1

This individual was brought to the attention of the Commission by Mr. Sol Littman, who found the name of the subject in a certain publication. It was alleged that this individual assisted the Nazis in destroying a village in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 692

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS, and it provided further information as to his whereabouts during the war.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 693

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 694

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain

whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 695

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada, applied for citizenship or obtained a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 696

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 697

Name stricken off Master List.

CASE NO. 698

This individual was brought to the attention of the Commission by the RCMP. This individual was named on a list that was submitted to the Department of External Affairs by the Ministry of Justice of a West European country. Officials of that country reported that a special court in their country sentenced this individual to death for war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by West European officials that they had no evidence that the subject had entered Canada.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The Commission determined that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject, though this record did not contain any information to indicate that the subject had entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 699

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1960. The Department of External Affairs provided documentation indicating that, while it had a record in respect of the individual (unrelated to war crimes), no Canadian passports had been issued to the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1962. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 700

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 701

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 702

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted CPIC and MVB searches. The CPIC search response was negative, while the MVB search produced positive results.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS.

The Commission was advised by Mr. Wiesenthal that he was unable to provide any additional information with respect to the subject.

The Commission determined that the subject died in Canada in 1977. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 703

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 704

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State, and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that he may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 705

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that the subject may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 706

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a letter from Mr. Simon Wiesenthal to the Honourable Robert Kaplan, P.C., M.P. This letter contained no specific allegation or evidence that the subject committed war crimes, other than Mr. Wiesenthal's assertion that the subject was a member of the Waffen-SS. The Commission asked for, but did not receive, further particulars of the subject's alleged war crimes. In addition, the letter contained no evidence that the subject entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only that the subject may have been a member of the Waffen-SS.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 707

Name stricken off Master List.

CASE NO. 708

This individual was brought to the attention of the Commission by correspondence addressed to the Department of the Solicitor General by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the shooting of citizens during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1963. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject. While the CPIC search result was negative, the MVB search produced a positive result indicating that the subject had been resident at a specified address in Canada.

The Commission determined that the subject died in Canada in 1985. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 709

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a certain publication. It was alleged that this individual was the author of certain articles.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and a similar first name entered Canada in 1949. The Department of the Secretary of State reported that this same individual, whose first name by now matched that of the subject under investigation, was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that the individual who landed in Canada was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 710

Name stricken off Master List.

CASE NO. 710.1

Opinion is in abeyance pending results of external checks.

CASE NO. 711

This individual was brought to the attention of the Commission by the Department of Justice, whose source of information was an Eastern Bloc country. No specific war crimes were alleged against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 712

This individual was brought to the attention of the Commission by the RCMP, whose source of information was not clear in its file. It was alleged that this individual had occupied an important position in the civil administration in an Eastern European country and had demanded, and been involved in, the liquidation of Jews there.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1954. The Department of External Affairs reported that the subject was granted a certificate of identity.

The Commission determined that the subject died in Canada in 1970. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 713

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that it had no record in respect of the subject. Notwithstanding this response, the Department of External Affairs reported that the subject was subsequently granted a Canadian passport. The passport application indicated that he had obtained Canadian citizenship.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

It should be noted that the departments of Employment and Immigration, the Secretary of State and External Affairs all reported that they had records of a person with an identical surname but a different first name. The Berlin Document Center reported that an individual having the same surname and first name as this individual (but no place or date of birth) was named in a list of SS men prepared for a purpose associated with a 1938 date. As there was no other reference to this person and the date is outside the Commission's mandate, no attempt was made to determine if the recipient of the medal was the person who entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 714

This individual was brought to the attention of the Commission by way of an anonymous letter. It was alleged that this individual was a war criminal, and the letter provided his name and address.

The Commission updated information from the source and is satisfied that the subject is resident in Canada. It checked with the RCMP and the Canadian Security Intelligence Service (CSIS) and determined they had no record in respect of the subject. Further investigation by the Commission indicated the subject was born in Canada. Checks at the Department of External Affairs indicated there was no record of his ever having left or re-entered Canada. At the same time, the Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 715

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual having a similar first name and surname entered Canada in 1956. The Departments of the Secretary of State and External Affairs reported that they had no record in respect of the subject or of the individual disclosed by Immigration.

The Commission conducted CPIC, MVB and vital statistics searches against the subject and the individual disclosed by Immigration. Both responses were negative.

The Commission noted that the RCMP had interviewed the person who submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 716

This individual was brought to the attention of the Commission by the RCMP. The individual was named on a list that was submitted to the Department of External Affairs by the Ministry of Justice of a West European country. The Commission was advised by the Honourable Robert Kaplan, P.C., M.P., that no information was received from West European officials to indicate that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 717

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS), which advised that the subject was investigated for security reasons as a former member of a nationalist Nazi Party who continued to espouse Nazi ideals. He was also brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a private citizen. There was no specific allegation or evidence that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada, and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1958. Documentation indicates that the screening committee granted clearance after it had considered materials collected during police investigations of the above-stated allegations. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.

CASE NO. 717.1

Name stricken off Master List.

CASE NO. 718

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1954. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1961. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1978. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 719

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that this individual had been involved in killings of Jews and caused Eastern European soldiers to be hanged.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with the same surname and a similar first name entered Canada in

1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. This report indicated a slightly different surname from that provided by Immigration. The Department of External Affairs reported that this same individual was granted a Certificate of Identity and subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches using all available names. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined that the individual who entered Canada was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of any of the names available to the Commission.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the individual who entered Canada. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly *RECOMMENDS* THAT:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the individual who entered Canada to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the individual who entered Canada to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

CASE NO. 720

This individual was brought to the attention of the Commission by Mr. Sol Littman in a list and by a second list from another private citizen. These lists contained no specific allegation or evidence that the subject had been involved in war crimes, apart from the assertion that he had been a member of the Galicia Division of the Waffen-SS known to have entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and other searches and determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes or membership in the Galicia Division is available. Even if it could be established that the subject had been a member of the Galicia Division, mere membership in the Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59).

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 721

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was an Eastern Bloc archive. The Commission was provided only with this individual's surname. Mr. Littman indicated that this individual may have been a chief of police in an Eastern European country during the war. Apart from the foregoing, there was no specific allegation that this individual had been involved in war crimes, nor any evidence that he had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Berlin Document Center advised that it was unable to respond to the Commission's request for information on the subject without further biographical data in addition to his surname.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 722

This individual was brought to the attention of the Commission by a private individual, whose source of information was unspecified. It was alleged that the subject under investigation had been a member of the SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 723

Opinion is in abeyance pending results of external checks.

CASE NO. 724

Name stricken off Master List.

CASE NO. 725

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were various publications by Mr. Simon Wiesenthal and certain newspaper publications and by the Simon Wiesenthal Center in California. It was alleged that this individual had been a police commander and had been involved in the killing of Jews in an Eastern European country in 1941-1943.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that three individuals having the same surname and a different first name entered Canada in 1951, 1948 and 1948 respectively.

The Department of the Secretary of State reported that these individuals were granted Canadian citizenship in the 1950's. In addition, the department reported that a fourth individual, whose surname and first name matched that of the subject under investigation was also granted Canadian citizenship in the same period. The citizenship application indicated that this individual had entered Canada using the same surname and a variant of his first name in 1950.

The Department of External Affairs reported that the three individuals had been granted Canadian passports.

The Commission conducted CPIC and MVB searches against these individuals. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the first, second and fourth individuals noted above were resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimüster nor the Berlin Sick Book Depository, had any record of the subject. The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, confirmed only that the fourth individual had been named in a certain publication. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin reported that the fourth individual had been a member of the Waffen-SS when he was captured at the end of the war.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the fourth individual noted above. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against this individual.

The Commission accordingly *RECOMMENDS* that:

1- **Historical research ought to be conducted into the activities of the unit to which the fourth individual noted above was attached in order to assist in determining if the activities could have included committing the crimes alleged.**

2- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the fourth individual noted above to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

3- Should, however, the Government of Canada decide to submit the name of the fourth individual noted above to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

CASE NO. 726

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 727

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper article, and also by Mr. Sol Littman and a private individual. It was alleged that the subject was responsible for the execution of Jews in 1941. There were two variations of the subject's name and it was alleged that he subsequently changed his name completely.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport under any of the three names. The Department of Employment and Immigration reported that an individual having the same name as the last name allegedly adopted by the subject under investigation entered Canada in 1927. It had no record in respect of the two variations of the subject's name. The Department of the Secretary of State reported that the individual who entered Canada was granted Canadian citizenship in 1932 under a slight variant of the name under which he entered Canada. It had no record in respect of the other two variations of the subject's name. The Department of External Affairs reported that it had no record of any of the names submitted.

The Commission conducted CPIC and MVB searches against the individual who entered Canada with negative results.

The Commission attempted to locate the individual who wrote the newspaper article without success. Moreover, the newspaper itself had ceased to exist.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject under either variation of his name on alleged entry into Canada or the name that he allegedly adopted subsequently. In addition, the Berlin Document Center confirmed that it had no record of the subject under either variation of his name on alleged entry into Canada.

The Commission determined that the individual who entered Canada died in Canada in 1983. A copy of the death certificate has been obtained by the Commission. The certificate indicates that this individual had a different date of birth from the subject under investigation and furthermore that this deceased individual had been born in one Eastern European country whereas the subject under investigation had been born in a different Eastern European country.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 728

This individual was brought to the attention of the Commission by the Department of Justice, whose source of information was the authorities of an Eastern Bloc country. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, had any record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 729

Name stricken off Master List.

CASE NO. 730

This individual was brought to the attention of the Commission by Mr. Sol Littman, the Canadian Jewish Congress and the League for Human Rights of B'nai Brith, Canada. It was alleged that this individual was involved in the publication of an anti-Semitic newspaper in an Eastern European country during World War II. Moreover, the private citizens who were the source of information for the League for Human Rights of B'nai Brith, Canada, reported that this individual was a Nazi who had been arrested by European liberation forces, and had been tried and imprisoned. Apart from the foregoing, there was no evidence or allegation that this individual had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship, or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. The CPIC search response was negative. The MVB search response was positive. The Commission located the subject in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc governments or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant governments, or to the appropriate archival centres, the matter ought to be re-assessed and a final decision taken depending upon the results of such inquiry.**

CASE NO. 731

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that this individual ordered the shooting of seven citizens and the burning of their settlement during the war, and was thereafter resident at a certain city in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that a person with a similar name entered Canada in 1949. He came to reside in the city specified by officials from the Eastern Bloc. All other search responses were negative.

The Commission contacted the Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission confirmed that the immigrant died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 732

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of the Commission. It was alleged by a private individual to the Canadian Jewish Congress (CJC) in 1966 that the subject under investigation had admitted killing Jewish girls and eating and selling human flesh. The allegation subsequently came to the attention of CSIS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration provided reports on seven individuals with the same surname and similar first name who had entered Canada since 1945. The Department of the Secretary of State reported that one of these individuals was granted Canadian citizenship in 1957. The Department of External Affairs reported that this same individual was granted Canadian passports on three occasions. There were no other records of citizenship or passport applications from the other individuals.

The Commission attempted to locate the individual who had submitted the subject's name to the Canadian Jewish Congress in order to assist in establishing the identity of the subject and to obtain additional information, but was unable to do so.

The Commission noted that the original complaint was forwarded to a foreign Minister of Justice, and to four other organizations, one of which referred it to the World Jewish Congress in Montreal. It appears from the material provided by the CJC, (which does not include all of the correspondence that was exchanged between the various parties) that no further action was taken by that organization.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of member of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission also checked with the United Nations War Crimes Commission and ascertained that an individual with the same surname and a similar first name, but no recorded place or date of birth, was involved in the mass execution of victims in an Eastern European country. In another file, that country's government also charged that an individual with the same surname and similar first name as the subject under investigation was involved in the organization and commission of mass executions. The government further charged that an individual with the same surname and similar first name to that of the subject under investigation was a criminal helper at a specified concentration camp in the latter part of the war.

A West European government charged that an individual with the same surname and similar first name to that of the subject under investigation was involved with another concentration camp and responsible for activities and the deaths of hundreds of workers in salt mines.

For the time being, the whole matter is shrouded in a cloud of possibilities and similarities between the subject, seven immigrants to Canada and four individuals denounced by the two separate governments. Either these should be clarified, or the file ought to be closed. Unfortunately, the time constraints have not permitted the Commission to launch those various inquiries.

The Commission accordingly *RECOMMENDS* that:

1- In order to clear up the uncertainties which clutter this file, the following steps should be taken:

- **a) the one immigrant who has become a Canadian citizen should be summoned by the appropriate authorities for interrogation on his wartime activities and his statements for purposes of immigration to Canada and citizenship.**
- **b) the Government of Canada should obtain from the relevant Eastern Bloc government and from the West European government the specific given names, dates and places of birth of**

the four individuals against whom they have laid charges in the United Nations War Crimes Commission and whose surname is identical to that of the subject under investigation.

2- Should the Government of Canada not wish to start those inquiries, the file should be closed.

3- Should the Government of Canada decide to proceed, the matter ought to be re-assessed and a final decision taken depending upon the results of such inquiries.

CASE NO. 733

This individual was brought to the attention of the Commission by B'nai Brith, whose source of information was a private individual. There was no specific allegation of war crimes against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration provided reports on twelve individuals with the same surname and a similar first name who had entered Canada since 1945. The departments of the Secretary of State and External Affairs reported that they had no records in respect of the subject.

The Commission subsequently learned that the subject under investigation and the complainant were related by marriage and that the complainant had allegedly threatened to ruin the subject financially some years ago.

The Commission confirmed that neither the Berlin Document Center, nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 734

Name stricken off Master List.

CASE NO. 735

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation might be a war criminal and had changed his name prior to coming to Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1953. The Department of the Secretary of State reported that the subject was granted Canadian citizenship. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject under either his current or alleged previous names.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 736

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the Canadian Jewish Congress. It was alleged that the subject under investigation had made references to his Nazi background and had made comments regarding the extermination of Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission attempted to locate the individual who submitted the subject's name to the Canadian Jewish Congress but was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 737

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 738

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. No specific war crimes were alleged against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results. Further investigations revealed that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-

Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 738.1

Opinion is in abeyance pending results of external checks.

CASE NO. 739

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Lastly, a foreign publication indicates the subject died in another country in 1981.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 740

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that this individual participated in the shooting of citizens of an Eastern European country during the war, and was thereafter resident under a new name at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses with regard to the original name were negative.

The Department of Employment and Immigration reported that a person using the alleged new name entered Canada in 1953. The Department of the Secretary of State reported that this immigrant was granted Canadian citizenship in 1958 and came to reside in the town indicated by the relevant authorities.

The Commission received documentation from the Berlin Document Center which confirms, in large part, the allegations made against the subject under his original name.

The Commission contacted the relevant Eastern Bloc officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

The Commission has also confirmed that the immigrant, who may have been the subject, died in Canada in 1982. A copy of the death certificate has been obtained by the Commission.

The Commission can conclude only that either the subject never entered Canada or the one person who may have been he, has died.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 741

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a document inviting certain people to join a Canadian National Socialist Party. There was no specific allegation of involvement in war crimes made against the subject under investigation.

In order to ascertain if the subject under investigation was Canadian-born or an immigrant, the Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject under either his current or alleged previous names. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository reported that they had records of the subject which confirmed only his membership in the Luftwaffe (air force).

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 742

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed that he was in a particular military group and either fought or was trained in a West European country, in addition to his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

Evidence of landing would have justified further investigation of the subject's activities; since, however, there is no evidence that the subject ever set foot in Canada, it is recommended that the file on the subject be closed.

CASE NO. 743

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it

conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 744

This individual was brought to the attention of the Commission by the Department of Justice, whose source of information was the Canadian Jewish Congress. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Department of External Affairs reported that the subject requested the renewal of his foreign passport in 1952. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1982.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission determined that the subject died in Canada in 1984. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 745

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration initially reported that it had no record in respect of the subject. The Department of the Secretary of State reported that the subject was granted a miniature Canadian citizenship certificate in 1960. He indicated in his application that he had been previously granted Canadian citizenship under another name and later that year had legally changed his name to the name that this Commission was investigating. Citizenship records confirmed this. When the Commission provided this information to the Department of Employment and Immigration, that department confirmed that the subject had entered Canada under the earlier name in 1951. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject under his previous name. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, and the Berlin Sick Book Depository advised that they had records of the subject which confirmed only his membership in the Wehrmacht (regular army).

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 746

Opinion is in abeyance pending results of external checks.

CASE NO. 747

This individual was brought to the attention of the Commission by the Canadian Jewish Congress, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the

subject entered Canada in 1961. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1966. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Both search responses were negative. Through other investigations, the Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record of the subject. The Berlin Sick Book Depository and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that they had records of the subject which confirmed only his membership in certain defence units.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 748

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. It was alleged that the subject under investigation had admitted participating in atrocities against Jews in an Eastern European city during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person corresponding to the information provided by the RCMP's source in some but not all respects entered Canada in 1954. The Department of the Secretary of State reported that this same person was granted Canadian citizenship in 1960. The Department of External Affairs reported that this same person was subsequently granted Canadian passports. None of these departments had any record of a person corresponding in every detail to the information provided to the RCMP.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the person who entered Canada. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, confirmed only that the person who entered Canada had been a member of Wehrmacht.

The Commission has now determined that the subject left Canada permanently for another country between 1981 and 1983.

The Commission accordingly *RECOMMENDS* that:

1- **The Government of Canada should pass on to the relevant authorities of that other country, the information contained in this report.**

2- **Subject to the foregoing, the file on the subject should be closed.**

CASE NO. 749

This individual was brought to the attention of the Commission by a private citizen, who alleged that the subject had been a member of the Gestapo and had killed many Jews.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1954. The Department of the Secretary of State reported that the immigrant was granted Canadian citizenship in 1970. The Department of External Affairs reported that the citizen was subsequently granted a Canadian passport.

The Commission conducted MVB and other checks and determined the citizen to be resident in Canada in 1986.

The Commission interviewed the citizen who submitted the subject's name to the Commission and obtained no additional information relevant to the Commission's inquiries.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, nor the Berlin Sick Book Depository had any record in respect of the subject.

The Berlin Document Center reported that it required more details to conduct a search as the name was a fairly common one. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, reported that the man who later emigrated to Canada served in no military unit during the war but was registered in a civil context at the very end of the war. Documentation confirms the man's rather recent date of birth in 1928.

The Commission reviewed a United Nations War Crimes Commission file pertaining to a person bearing the surname of the subject, but indicating no given names. The file indicated that this man had been an SS officer who served with specific units and who was being investigated for murder and other crimes. Perhaps the UNWCC investigation is of the person against whom the allegations of war crimes are made, but it bears no relevance to the person who entered Canada.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 750

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS and that he was reported missing in action.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 751

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative, save for one possibility which was ruled out for several reasons after thorough investigation.

The Commission was advised by the Berlin Document Center and the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin that they had a record of the subject which confirmed his membership in the Galicia Division of the Waffen-SS, and other personal information. The Berlin Sick Book Depository advised that the subject spent a month in hospital in a Civilian Internment Camp in 1946, with no further details.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, had any record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 751.1

Opinion is in abeyance pending results of external checks.

CASE NO. 752

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject was involved in the organization of the Halychyna Division. Mr. Littman provided no evidence of specific war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration advised that the subject entered Canada in 1949. The Department of the Secretary of State advised that the subject was granted Canadian citizenship. The Department of External Affairs advised that the subject did not obtain a Canadian passport.

The Commission was advised by the Berlin Document Center that it had no record on the subject.

The Commission has also confirmed that the subject died in Canada in 1969. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 753

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 754

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 755

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private individual. There was no specific allegation of involvement in war crimes made against the subject under investigation.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that an individual with a similar surname and identical first name entered Canada in 1983. The departments of the Secretary of State and External Affairs reported that they had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject with negative results. Through other investigations, the Commission determined that the subject was resident in Canada in 1986.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject or the individual who entered Canada. The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin reported that it had records which confirmed only that the individual who entered Canada was a member of the Wehrmacht.

The Commission also checked with the United Nations War Crimes Commission and ascertained that a West European government alleged that an individual with an identical surname to that of the individual who entered Canada, but with no first name or date or place of birth, participated in mass murder and other crimes largely against the Resistance and had been in custody at one time. That government also alleged that a similarly described individual participated in 1944 in the arrest, torture and murder of Jews and members of the Resistance.

Finally, the same government alleged that an individual having a similar surname to that of the individual who entered Canada, but with no first name or date or place of birth, personally ordered the death without warning of a civilian in 1944.

The connection between those charges and the subject is flimsy and more information is obviously essential.

The Commission accordingly *RECOMMENDS* that:

1- The subject should be summoned by the appropriate authorities for interrogation on his wartime activities.

2- The Government of Canada should submit a request to the relevant West European government in order to ascertain the given name and the date and place of birth of the individuals who bear a surname identical or similar to that of the subject and against whom the West European government has alleged instances of torture and mass murder.

3- The matter should be re-assessed and a final decision taken, depending upon the results of those inquiries.

CASE NO. 756

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had no record in respect of the subject.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 757

This individual was brought to the attention of the Commission by the RCMP, whose source of information was correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject committed war crimes apart from Mr. Wiesenthal's assertion that the subject had been a member of the Galicia Division of the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a

passport. The Department of Employment and Immigration reported that a person with a similar name entered Canada in 1951. However, his date of birth differs by seven years. The departments of the Secretary of State and External Affairs reported they had no record of either the immigrant or the subject.

The Commission was advised by the Berlin Document Center, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, as well as the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, that they had records of the subject which confirmed his membership in the Galicia Division of the Waffen-SS. They also included a Missing in Action report for the subject.

The Commission confirmed that neither the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, nor the Berlin Sick Book Depository, had any record of the subject.

The Commission asked Mr. Wiesenthal to provide additional information with respect to the subject and was advised that he was unable to do so.

On the basis of the foregoing, no evidence of participation in or knowledge of specific war crimes beyond membership in the Galicia Division is available. Without such evidence, mere membership in the Galicia Division is insufficient to establish a *prima facie* case for the Commission's purposes, as discussed in chapter I-8 of this Report (see finding no. 59). Further, it seems likely the subject never survived the war and that the immigrant to Canada is a different man.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 758

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 759

Name stricken off Master List.

CASE NO. 759.1

Opinion is in abeyance pending results of external checks.

CASE NO. 760

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a list of alleged war criminals that was submitted to the Department of External Affairs by the authorities of an Eastern Bloc country. The subject was alleged to have served in a "punitive detachment" and participated in reprisals against civilians. The subject was alleged to be living at an unspecified address in Canada. No specific evidence of the alleged war crimes was provided.

Checks with the departments of Employment and Immigration, the Secretary of State and External Affairs revealed that the subject entered Canada in 1949. The Department of the Secretary of State advised that the subject was granted Canadian citizenship. The Department of External Affairs advised that the subject obtained a Canadian passport.

The Commission has confirmed that the Berlin Document Centre has no record on the subject. The Commission was advised by the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, that its record on the subject indicates only that the subject was named as an alleged war criminal by Mr. Simon Wiesenthal. The Commission asked for, but did not receive, further information from Mr. Wiesenthal.

The Commission has also confirmed that the subject died in Canada in 1983. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 761

Name stricken off Master List.

CASE NO. 762

This individual was brought to the attention of the Commission by correspondence addressed to the Department of External Affairs by the authorities of an Eastern Bloc country. It was alleged that this individual had participated in the execution of citizens and Jewish persons in an Eastern European country during the war, and was thereafter resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC, MVB and other searches. All search responses were negative.

The Commission's efforts to locate the subject at the address specified in Canada produced negative results.

The Commission contacted the relevant country's officials and requested additional information in respect of the subject's alleged war crimes and entry into Canada. No further information was received in response to the Commission's request.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 763

Opinion is in abeyance pending results of external checks.

CASE NO. 764

This individual was brought to the attention of the Commission by the Canadian Security Intelligence Service (CSIS) in the course of a review it conducted of its files following the establishment of this Commission. There was no allegation of war crimes in the file.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 765

This individual was brought to the attention of the Commission by Mr. Sol Littman. Mr. Littman alleged that the subject took part in the shooting of citizens in Eastern Europe in 1942. When contacted by the Commission, Mr. Littman advised that he was unable to provide any further information or evidence.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The results of these checks were negative.

Further checks of police and motor vehicle registration records were also negative.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, no evidence of entry into Canada or participation in or knowledge of specific war crimes is available.

The Commission accordingly recommends that the file on the subject be closed.

CASE NO. 766

Opinion is in Part II, (Confidential), of this Report.

CASE NO. 767

This individual was brought to the attention of the Commission by correspondence addressed to the Honourable Robert Kaplan, P.C., M.P., by Mr. Simon Wiesenthal. The correspondence contained no specific allegation or evidence that the subject had been involved in war crimes, apart from Mr. Wiesenthal's assertion that he was a member of the Galicia Division of the Waffen-SS. In addition, the correspondence contained no evidence that the subject had entered Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All search responses were negative.

The Commission was advised by the Berlin Document Center that it had a record of the subject which confirmed only his membership in the Galicia Division of the Waffen-SS.

The Commission requested Mr. Wiesenthal to provide additional information with respect to the subject, and was advised that he was unable to do so.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 768

This individual was brought to the attention of the Commission by the RCMP, whose sources of information were certain newspaper publications. It was alleged that this individual had been involved in killings at a particular concentration camp in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The response from the Department of External Affairs was negative.

The Commission conducted CPIC and MVB searches against the subject with negative results. Nevertheless, the Commission determined the subject to be resident in Canada in 1985.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire of Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject.

The Commission accordingly RECOMMENDS that:

1- Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.

2- Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.

CASE NO. 769

This individual was brought to the attention of the Commission by the RCMP, whose source of information was Mr. Simon Wiesenthal. It was alleged that the subject under investigation had been a member of a paramilitary organization and had been convicted in an Eastern European country during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that it had no record in respect of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

The Commission wrote to the Department of External Affairs in 1985 requesting it to obtain any information on the public record in the relevant country of the alleged conviction of the subject under investigation. Despite repeated requests from the Department of External Affairs, at the time of writing there has been no response to that request from the government of that country.

In addition, in 1985 the Commission wrote to the Centre de documentation juive contemporaine in Paris requesting any information that the centre had on the activities of the particular paramilitary organization in general and a number of named individuals, including the subject under investigation. There was no response to that letter.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had a record in respect of the subject.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation. However, for the reasons noted in chapter I-5 of this Report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations of war crimes against the subject (other than the specific request relating to the alleged conviction noted above).

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject under investigation to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the name of the subject under investigation to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 770

This individual was brought to the attention of the Commission by both the Canadian Jewish Congress and Mr. Sol Littman. The Canadian Jewish Congress' source of information was a resident of a foreign country, and Mr. Littman's source of information was a newspaper publication. The Canadian Jewish Congress alleged that this individual was involved with the Galicia Division of the Waffen-SS. Mr. Littman alleged that this individual was a member of a military government established purportedly to effect the organization of the Galicia Division of the Waffen-SS. Apart from the foregoing, there was no specific allegation or evidence that the subject had been involved in war crimes.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Department of the Secretary of State reported that the subject had been granted Canadian citizenship in 1954. The Department of External Affairs reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Berlin Document Center did not have a record in respect of the subject.

The subject died in Canada in 1973. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 771

This individual was brought to the attention of the Commission by the RCMP and a number of other sources, whose source of information was a document of unknown origin which listed a number of individuals alleged to have committed war crimes specified in the documents. It was alleged that this individual had participated in the execution of Jewish civilians in 1942-1943.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had no record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 772

This individual was brought to the attention of the Commission by a private citizen, whose source of information was a letter initially written to the Canadian Jewish Congress. It was alleged that this individual was a war criminal, but the letter provided no further details.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1955. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1973. The Department of External Affairs reported that it had no record of the subject.

The Commission confirmed that neither the Berlin Document Center nor the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, had any record in respect of the subject.

The Commission interviewed the citizen who submitted the subject's name to the Canadian Jewish Congress and determined that the subject had died in

Canada in 1980. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 773

This individual was brought to the attention of the Commission by the Canadian Jewish Congress. It was alleged that this individual had committed brutalities as a policeman in a ghetto in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1956. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission confirmed that the Berlin Document Center had no record in respect of the subject.

The Commission determined that the subject died in Canada in 1958. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 774

This individual was brought to the attention of the Commission by the RCMP. This individual was named on a list which was submitted to the Department of External Affairs by the Ministry of Justice of a West European country. Officials reported certain details of the subject's military responsibility.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Commission also conducted CPIC and MVB searches. All search responses were negative.

The Commission was advised by the West European officials that they had no evidence that the subject had entered Canada.

The Commission confirmed that the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, did not have a record in respect of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 775

Name stricken off Master List.

CASE NO. 775.1

This individual was brought to the attention of the Commission by the RCMP, which was conducting an investigation with regard to an unrelated offense. There was no specific allegation of involvement in war crimes made against this individual.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1957. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted CPIC and MVB searches against the subject. Though both search responses were negative, the Commission determined the subject to be resident in Canada in 1981, according to his passport.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, the Berlin Sick Book Depository, nor the Central Information Office of the Federal Archives in Aachen-Kornelimünster, all in West Germany, had any record of the subject.

The Commission reviewed documentation available from the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt). It indicated the subject served in a specific battalion in 1939 and 1940. He later served in another unit. This is all the information available to the Commission and it in no way supports any suspicion of involvement in war crimes.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. 776

This individual was brought to the attention of the Commission by a private citizen. It was alleged that as a member of the SS, he had once driven Jews from a West European country to a railroad station.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1955. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted investigations and determined the subject to be resident in Canada in 1986.

The Commission interviewed the citizen who had submitted the subject's name and determined that he had no additional information relevant to the Commission's inquiries, and that the information he had in no way supported the allegations he had made.

The Commission confirmed that neither the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository, had any record of the subject.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

e) 38 individual opinions on cases from the Addendum

CASE NO. A-1

This individual was brought to the attention of the Commission by the Canadian Holocaust Remembrance Association, whose source of information was an unidentified private citizen. It was alleged that the subject under investigation was involved in unspecified war crimes.

Although the subject's name was apparently given to the Commission wrongly, the Commission was able, by substituting the surname with the given name and vice versa, to locate a subject living in Canada with the phone number supplied by the source.

The Commission conducted searches at CPIC, MVB and Vital Statistics (Deaths) against the subject which met with negative results.

It is to be noted that due to time constraints, the files of the United Nations War Crimes Commission in New York, the departments of Employment and Immigration, the Secretary of State and External Affairs were not searched nor were verifications made with overseas agencies for war crimes records.

The source has been contacted and can supply no additional information on the allegation or on the identity of the subject.

Accordingly, the Commission *RECOMMENDS* that:

1- **Other investigative avenues should be explored to obtain identifiers of the subject located.**

2- **If identifiers are obtained, checks should be made at the departments of Employment and Immigration, the Secretary of State and External Affairs.**

3- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

4- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-2

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation was responsible for mass murders of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that a person with the same name but a different date of birth entered Canada in 1948. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

The Commission conducted searches at CPIC, MVB and Vital Statistics (Deaths) against the subject. Though the CPIC and MVB search responses were negative, the Vital Statistics shows the death of a subject with a similar name but a different date of birth, in 1966.

The Commission is unable to say at this time if the subject of the allegation entered or is in Canada.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York City were not searched; nor were verifications made with overseas agencies for war crimes records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is located in Canada, inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-3

This individual was brought to the attention of the Commission by a letter from the authorities of an Eastern Bloc country, alleging that the subject of this investigation commanded the execution of two civilians in 1942 and of a number of Jewish inhabitants of an Eastern European town. According to the source of information, concrete evidence in the form of photos and statements is available. The subject is apparently living in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC, MVB, telephone and name directories as well as Vital Statistics searches against the subject with negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. A-4

This individual was brought to the attention of the Commission by the RCMP, whose source of information was the authorities of a foreign country. The information supplied to the RCMP was to the effect that the foreign government was in the process of extraditing the subject to an Eastern Bloc country and, as there was a possibility of his coming to Canada, the information was simply to alert the Canadian authorities.

As a result of not having the date of birth of the subject until very recently, requests for checks at the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain whether the subject ever entered Canada were not made.

The Commission has confirmed through the RCMP and news media accounts that the subject was extradited from the relevant foreign country to the Eastern Bloc country where he has now been convicted of war crimes.

Accordingly, the Commission *RECOMMENDS* that:

1- **The file on the subject should be closed.**

CASE NO. A-5

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation was in authority where mass murder of Jews took place in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the

Department of the Secretary of State. The Department of External Affairs reported negative search results.

The Commission conducted CPIC, MVB and Vital Statistics (Deaths) searches against the subject with negative results but police records indicate that the subject is living in Canada in 1986.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken depending on the results of such inquiries.**

CASE NO. A-6

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation was a member of the Gestapo/SD in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission has now confirmed that the subject died in Canada in 1954. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject should be closed.

CASE NO. A-7

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-8

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files**

in New York and in overseas files as to the subject's wartime activities.

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-9

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-10

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation served with the SD in an Eastern European country and also served in a particular prison.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York City were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission has confirmed that the subject died in Canada in 1972. A copy of the death certificate has been obtained by the Commission.

No checks were conducted at CPIC and MVB because it was determined that the subject had died.

On the basis of the foregoing, it is recommended that the file on the subject should be closed.

CASE NO. A-11

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation was involved in the murder of a Jew in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted CPIC and Vital Statistics (Deaths) searches against the subject with negative results. The MVB search indicates that the subject is living in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Inquiries should be made in Canadian files, overseas files as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-12

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was a private individual. It was alleged that the subject under investigation was an active participant in the persecution and murder of Jews in an Eastern European country. The subject would have entered Canada in 1948.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

The Commission conducted CPIC checks against the subject with negative results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and overseas files as to the subject's wartimes activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-13

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged by the source that the subject of this file is a war criminal, as he seems to hate Jews.

The source was interviewed by the RCMP in 1986. The subject is alleged to have stated that he loved Hitler.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 with the subject of A-14. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted MVB searches against the subject and confirms that the subject is living in Canada.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. It is recommended that the file on the subject should be closed.

CASE NO. A-14

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged by the source that the subject of this file is a war criminal, as she seems to hate Jews.

The source was interviewed by the RCMP in 1986. The subject is alleged to have stated that she loved Hitler.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether she had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 with the subject of case A-13. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was granted a Canadian passport, but no year is mentioned.

The Commission conducted MVB searches against the subject and confirms that the subject is living in Canada.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. It is recommended that the file on the subject should be closed.

CASE NO. A-15

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation participated in the murder of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York City were not searched nor were verifications made with overseas agencies for war crimes records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken depending on the results of such inquiries.**

CASE NO. A-16

This individual was brought to the attention of the Commission by B'nai Brith from a private source. The source alleged that a war criminal entered Canada using the source's name and was living in a particular suburban area.

It should be noted at this point that this same source complained to the Department of the Secretary of State on an earlier occasion to the effect that a war criminal was impersonating him by using his name and documents, was also committing crimes of arson and sabotage and was making the source's life a nightmare.

The Commission requested the Department of Employment and Immigration to conduct checks. This search revealed that the subject entered Canada in 1953 under his own name and not the name of the source. The latter entered Canada in 1972.

The source was interviewed in 1986 concerning the first complaint: it was evident that he was mentally unstable.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. It is recommended that the file on the subject should be closed.

CASE NO. A-17

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation participated in the murder of Jews of an Eastern European city carried out by a particular group.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted CPIC and MVB searches against the subject with negative results.

The Commission has confirmed that the subject died in Canada in 1975. A copy of the death certificate has been obtained by the Commission.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. A-18

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation participated in the persecution and murder of Jews of an Eastern European city.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted CPIC and Vital Statistics (Deaths) searches against the subject with negative results. The MVB search indicates that the subject is living in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken depending on the results of such inquiries.**

CASE NO. A-19

This individual was brought to the attention of the Commission by Mr. Sol Littman, whose source of information was from a foreign country. It was alleged that the subject under investigation participated in the persecution and murder of Jews in an Eastern European city.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted CPIC and Vital Statistics (Deaths) searches against the subject with negative results. The MVB search indicates that the subject is living in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-20

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. It was alleged by the source that, while he was employed in Canada, he had heard that the subject had worked for the German occupation authorities in a policing capacity in an Eastern European country. The source also mentioned that a fellow employee also knew about the subject's past.

In 1986, the RCMP interviewed the source and the fellow employee. The source stated that he had no proof to substantiate the allegation, that it was just hearsay. The fellow employee stated that he knew nothing of the subject's past and had not heard of any rumours.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported negative search results.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted checks at MVB, which indicated that the subject is living in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-21

This individual was brought to the attention of the Commission in a letter from Mr. Sol Littman alleging that subject played an active role in the murder of Jews in an Eastern European country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. It appears from one of the subject's passport applications that he was residing in a specific province in Canada.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be pursued with the Department of the Secretary of State for citizenship.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-22

This individual was brought to the attention of the Commission by the Canadian Holocaust Remembrance Association, whose source of information was an unidentified private citizen. It was alleged that the subject under investigation was involved in unspecified war crimes.

The Commission did not request checks at the departments of Employment and Immigration, the Secretary of State or External Affairs because of the lack of identifiers of the subject, i.e., no date of birth.

The Commission conducted checks at CPIC, MVB and Vital Statistics (Deaths) against the subject. All search responses were negative.

The Commission established that there is an individual with a similar name living at the address given in Canada.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The source has been contacted and can supply no additional information on the allegation or on the identity of the subject.

Accordingly, the Commission *RECOMMENDS* that:

1- **Other investigative avenues should be explored to obtain identifiers of the subject.**

2- **If identifiers are obtained, checks should be made at the departments of Employment and Immigration, the Secretary of State and External Affairs.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-23

This individual was brought to the attention of the Commission by the Department of External Affairs, whose source of information was a letter from the authorities of an Eastern Bloc country. It was alleged that the subject was an officer in a unit in Eastern Europe.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada under another name in 1951. The Commission is awaiting a reply from the Department of the Secretary of State. The Department of External Affairs reported that the subject was subsequently granted Canadian passports. The passport applications also indicated that the subject was granted Canadian citizenship in 1958. The name under which the passports were issued is the same as submitted by the relevant foreign authorities.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The Commission conducted MVB checks which indicated that the subject is living in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- Checks should be pursued with the Department of the Secretary of State for details of the subject's citizenship as well as for the purpose of clarifying the change of name.

2- Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.

3- The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.

CASE NO. A-24

This individual was brought to the attention of the Commission by the RCMP, whose source of information came about as a result of this individual and his wife applying for immigration to Canada in a country in Western Europe.

As a result of the investigation into the subject's background because of his application for admission to Canada, the RCMP requested checks be made at the Berlin Document Center which revealed specific information about the wartime service history of the subject.

The subject and his wife were interviewed in a West European city in 1985. The Commission learned that it was recommended that these persons be denied entry to Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or had applied for citizenship or a passport. All departments reported negative search results.

As there is no evidence that the subject ever entered Canada, it is recommended that the file on the subject should be closed.

CASE NO. A-25

This individual was brought to the attention of the Commission by the Canadian Holocaust Remembrance Association, whose source of information was an unidentified private citizen. It was alleged that the subject under investigation was involved in unspecified war crimes.

Not having information as to the date of birth, the Commission did not request checks at the departments of Employment and Immigration, the Secretary of State and External Affairs.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

The source has been contacted and can supply no additional information on the allegation or on the identity of the subject. The address and phone number given by the source for the subject are those of another individual.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. It is recommended that the file on the subject should be closed.

CASE NO. A-26

The source and the nature of the allegation against this subject have accidentally been lost.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. Different pieces of information came to light. According to the Department of Employment and Immigration, a person with the same surname as the subject but a different given name, born in an Eastern Bloc country entered Canada in 1951. According to the Department of the Secretary of State, a person with the same surname and given name as the subject, born in a West European country in 1926, entered Canada in 1953. This person was granted citizenship in 1965. The Department of External Affairs reported that this same person was granted a Canadian passport. This person appears to be the subject of this inquiry.

The subject has been located in Canada.

It is to be noted that, due to time constraints, the files of the United Nations War Crimes Commission in New York were not searched nor were verifications made with overseas agencies for war crimes records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

2- **The case should then be re-assessed and a final decision taken, depending on the results of such inquiries.**

CASE NO. A-27

This individual was brought to the attention of the Commission by the RCMP, whose source of information came about as a result of this individual applying for immigration to Canada in a country in Western Europe.

As a result of the investigation into the subject's background because of his application for admission to Canada, the RCMP requested checks be made at the Berlin Document Center which revealed that he had been heavily committed to the SS. During the pre-war time, the subject was a member of the General SS and he served in a particular unit, later the Waffen-SS.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for citizenship or a passport. All departments reported negative results.

As there is no evidence that the subject entered Canada, it is recommended that the file on the subject should be closed.

CASE NO. A-28

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files**

in New York and in overseas files as to the subject's wartime activities.

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-29

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-30

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a West European country's media. It was alleged that the subject under investigation betrayed several Resistance fighters to Nazis and warned the Germans of an allied attack in that country during the war.

The subject is reported to have died in that West European country in prison in 1946. Recently, the remains of an exhumed body were examined by a renowned pathologist who confirmed the remains to be those of the subject of this file.

On the basis that the subject died in 1946 in the relevant country, it is recommended that the file on the subject be closed.

CASE NO. A-31

This individual was brought to the attention of the Commission by way of an anonymous letter containing a newspaper clipping. The newspaper clipping alleges that the subject was a member of the SS during the war. However, a source close to the subject indicated that the subject had in fact deserted and hid out for the balance of the war in another country.

Due to time constraints the Commission was unable to request checks to be made at the departments of Employment and Immigration, the Secretary of State and External Affairs.

It should also be noted that, due to time constraints, checks were not made at the United Nations War Crimes Commission nor were there any overseas checks made on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks against the subject should be made with the departments of Employment and Immigration, the Secretary of State and External Affairs.**

2- **If the subject is not found in Canada, the file should be closed.**

3- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files and overseas files as to the subject's wartime activities.**

4- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-32

This individual was brought to the attention of the Commission by the Department of External Affairs, whose source of information was the authorities of an Eastern Bloc country. It was alleged that, as a policeman in Eastern Europe, the subject participated in the rounding up at various times of hundreds of Jews and others and the execution of them during the war.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada or had applied for citizenship or a passport. All departments reported negative search results.

The Commission conducted CPIC, MVB, telephone directories and local police indices searches against the subject. All search responses were negative.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. A-33

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-34

This individual was brought to the attention of the Commission by a private individual who described himself as a researcher concerned with the presence of Nazi war criminals in a foreign country. It was alleged that the subject under investigation was a Nazi war criminal who had been given certain status in that foreign country and had immigrated to Canada where he is presently living.

Research conducted by the Commission historian revealed evidence of the subject's death in 1986 in a West European country. The subject's obituary appeared in a certain publication.

On the basis that the subject has died, it is recommended that the file on the subject be closed.

CASE NO. A-35

This individual was recently brought to the attention of the Commission by the Canadian Jewish Congress which was informed by a private citizen that an unidentified Nazi war criminal is hiding in Canada.

The source was interviewed and stated that he had received information from a close friend to the effect that a Nazi war criminal (name unknown), approximately 75 years of age, had been working in Canadian locations for approximately 40 years and then went into hiding several years ago. The subject had said other things which raised suspicions that he might be a war criminal.

Due to time constraints the Commission was unable to pursue this investigation with a view to locating and identifying the subject.

Accordingly, the Commission *RECOMMENDS* that:

1- **Further investigation should be undertaken to identify and locate the unidentified suspect.**

2- **If identified, checks should be made with the departments of Employment and Immigration, the Secretary of State and External Affairs to ascertain when the subject entered Canada and if he ever applied for citizenship or a passport.**

3- **Inquiries should be made in Canadian files, overseas files, as well as the United Nations War Crimes Commission files in New York as to the subject's wartime activities.**

4- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. A-36

This individual was brought to the attention of the Commission by the Canadian Holocaust Remembrance Association, whose source of information was an unidentified private citizen. It was alleged that the subject under investigation was involved in unspecified war crimes.

The Commission could not request checks at the departments of Employment and Immigration, the Secretary of State or External Affairs because of the lack of identifiers of the subject, i.e., no date of birth and uncertainty as to the correct surname and given name. Furthermore, the address given is not the residence of the subject under investigation.

The source has been contacted and can supply no additional information on the allegation or on the identity of the subject.

On the basis of the available evidence, there is no *prima facie* case or even a specific allegation of war crimes against the subject. It is recommended that the file on the subject be closed.

CASE NO. A-37

This individual was brought to the attention of the Commission by the RCMP, whose source of information was another police force. The source revealed that the subject was arrested by a police officer and charged with assault. At the time of being booked on this charge, he indicated that during the war he joined the German army and that in less than two years he rose to officer rank. He also told the arresting officer that he was not a member of the SS. At the time of his arrest, he advised the officer that since his arrival in Canada in 1956, he has not applied for citizenship or a Canadian passport.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1956. The departments of the Secretary of State and External Affairs reported negative search results.

The Commission has learned that a very recent check by the RCMP at the Berlin Document Center and Ludwigsburg reported negative search results; however, their check at WASt showed that the subject was born in a West European city, where he joined the army during the war and served till the end of the war.

The information from WASt also showed that in 1943 his rank was that of a Schütze; this rank is equated at a rank lower than a private.

On the basis of the available evidence, there is no *prima facie* case nor even a specific allegation of war crimes against the subject. It is recommended that the file on the subject be closed.

CASE NO. A-38

This individual was brought to the attention of the Commission by the Simon Wiesenthal Center of Los Angeles, California, U.S.A.

The limited time remaining before the closing of the Commission did not allow for the conduct of any inquiries or verifications.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of Employment and Immigration, the Secretary of State and External Affairs for entry into Canada, citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files, in the United Nations War Crimes Commission files in New York and in overseas files as to the subject's wartime activities.

5- The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

f) 71 individual opinions on cases of German scientists and technicians

CASE NO. S-1

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.

2- If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-2

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-3

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- If any one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-4

Name stricken from the list.

CASE NO. S-5

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as his destination. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories and local police indices searches against the subject which proved negative. A search at Vital Statistics proved positive.

The Commission, having determined that the subject died in Canada in 1971, obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-6

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. He was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm shown as his destination. The Department of External Affairs reported negative search results.

Inquiries were conducted at a firm with the same name as the subject's destination. However, it had never been located at the address of the subject's destination. CPIC, Vital Statistics from 1955 to 1986, MVB, and Bell Canada were all negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-7

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- Checks should be made against the subject with the Department of the Secretary of State for citizenship.

2- If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-8

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 as a landed immigrant. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport at which time the subject's address was in a specific province in Canada.

The telephone directory has a current listing at the same address.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the overseas agencies for war records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-9

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was granted landed immigrant status in April 1951 while employed at the same firm. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted MVB searches and Vital Statistics (Marriages) with positive results.

The Commission confirmed that the subject was a resident in Canada in 1986.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-10

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 as a landed immigrant. The subject was destined for a specific province where he had been guaranteed employment with a government agency. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport to visit a foreign country.

Inquiries were conducted at the agency where the subject was supposed to have worked. His employment with the agency was confirmed, along with evidence of the subject's residency in that relevant foreign country. All of the subject's immediate family is permanently established near him and there is no indication of any plan to return to Canada.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

On the basis that the subject is a resident of a foreign country it is recommended that this file be closed.

CASE NO. S-11

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951 with the same firm being shown as his destination. The Department of External Affairs reported negative search results.

The Commission conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission also conducted searches at Vital Statistics (Death) which revealed that the subject died in Canada in 1981. The Commission obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-12

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. He entered on a Minister's permit for one year and was destined for a major employer in a particular province. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

Verifications were made at CPIC, MVB, and Vital Statistics with negative results. The firm where the subject was employed was dissolved in the 1950's and its records have been destroyed.

While it could be reasonably presumed that this individual left Canada at the end of his one year permit, the time constraints prevented the Commission from checking with the Secretary of State for citizenship and of conducting additional verifications with a view to confirming departure, as well as of conducting overseas checks on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State for citizenship.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-13

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948 as a non-immigrant. He was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, destined for another particular firm. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport at which time the subject's permanent address was in a specific province in Canada.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

Vital Statistics revealed that the subject was reported deceased in Canada in 1983. A copy of the death certificate was obtained.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-14

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that subject was admitted as a landed immigrant in 1951 with the same firm being shown as his destination. The Department of External Affairs reported negative search results.

The Commission conducted searches at Vital Statistics (Death) which revealed that the subject died in Canada in 1980. The Commission obtained a copy of the death certificate.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-15

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951 with the same firm being shown as his destination. The Department of External Affairs reported negative search results.

Inquiries were conducted with the firm which had employed the subject, but the only recollection was that the subject worked there and left for another province over 20 years ago.

The Commission conducted searches at CPIC, MVB, and Vital Statistics (Deaths), and all local directories with negative results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

Due to time constraints, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-16

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-17

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-18

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-19

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-20

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-21

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a specific province. The same department also reported that the subject was granted landed immigrant status in 1951 while still in that province. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted a check at Vital Statistics which revealed that the subject died in Canada in 1983. The Commission obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-22

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as his destination. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories and local police indices searches against the subject which proved negative. A search at Vital Statistics proved positive.

The Commission, having determined that the subject died in Canada in 1967, obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-23

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as destination. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission's investigation has revealed that the subject of this file is employed and living in Canada.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **Should these checks reveal that the subject was involved in war crimes activities, the case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-24

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular factory for employment. The Department of External Affairs reported negative search results.

Inquiries were conducted at the factory where the subject was destined to go, but the company is no longer in business and the Commission was unable to trace any of the company's principals.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted searches at CPIC, MVB, Vital Statistics (Deaths), and local directories with negative results.

While it could be reasonably presumed that this individual left Canada at the end of his one year permit, time constraints prevented the Commission from checking with the Secretary of State for citizenship and of conducting additional verifications with a view to confirming his departure, as well as of conducting overseas checks on the subject's wartime activities.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-25

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. He was destined for a specific province where he was guaranteed employment in a major industry. The same department also reported that the subject was granted landed immigrant status in 1951, destined for the same firm. The Department of External Affairs reported negative search results.

Inquiries were conducted at the firm where the subject was allegedly employed. The subject is not currently, nor has he been employed for the past five years. Personnel records are retained for only five years at the firm in question.

No trace of the subject could be found in local directories. Vital Statistics from 1955 to 1986 as well as CPIC had negative results. No MVB check was done due to the lack information on a date of birth.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- Checks against the subject should be made with the Department of the Secretary of State.

2- Other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-26

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as destination. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories and local police indices searches against the subject which proved negative. A search at Vital Statistics proved positive.

The Commission, having determined that the subject died in Canada in 1961, obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-27

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a specific province. There is no record indicating that the subject was granted landed immigrant status. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission also conducted a check at Vital Statistics which revealed that the subject died in Canada in 1979. The Commission obtained a copy of the death certificate.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-28

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. He was destined for a specific province where he was guaranteed employment in a major industry. The same department also reported that the subject was granted landed immigrant status in 1951 destined for the same firm. The Department of External Affairs reported that an individual with the same name and date of birth, but place of birth not mentioned, was residing in Canada in 1963.

No inquiries were conducted at the company in question as it is no longer in business.

No trace of the subject could be found in local directories. Vital Statistics also produced negative results from 1955 to 1986. Canada-wide MVB verifications were made with negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-29

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. He was destined for a specific province and was guaranteed employment in a major industry. The same department also reported that the subject was granted landed immigrant status in 1951 destined for the same company. The Department of External Affairs reported negative search results.

No inquiries were conducted at the company in question as it is no longer in business.

No trace of the subject could be found in local directories. Vital Statistics also produced negative results from 1955 to 1986. No MVB verifications were made due to the lack of information on a date of birth.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-30

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-31

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-32

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-33

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951 with the same firm being shown as destination. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport at which time the subject's permanent address was in a foreign country.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories, Vital Statistics and local police indices searches against the subject. All search responses were negative.

In view of the foregoing, it strongly appears that the subject did not return to reside in Canada since giving a permanent foreign address.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **Should these checks reveal that the subject was involved in war crimes activities, consideration should be given to submitting the name of the subject under investigation to the relevant foreign authorities.**

3- **If verifications prove negative, the file should be closed.**

CASE NO. S-34

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-35

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as destination. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories, local police indices and Vital Statistics searches against the subject, which proved negative.

Inquiries were conducted at the firm where the subject was supposed to have worked. His employment was confirmed. It was learned that, in the 1970's, he returned to his native country where he died a few years ago in his late 80's.

It is noted that due to time constraints, application for a death certificate was not requested from the relevant foreign authorities.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-36

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. He was destined for a specific province where he was guaranteed employment with a major industry. The same department also reported that the subject was granted landed immigrant status in 1951 with the same firm shown as his destination. The Department of External Affairs reported negative search results.

No inquiries were made at the firm where the subject was allegedly employed as the company is no longer in existence.

The subject's name was verified in local directories with negative results. Vital Statistics from 1955 to 1986, was also negative. Confidential sources also failed to reveal the subject as residing in the province in question. No MVB check was made.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- Checks against the subject should be made with the Department of the Secretary of State.

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-37

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a specific province where he was to be employed at a particular company. The Department of External Affairs reported negative search results.

Inquiries were conducted where the subject was destined to go. The company is no longer in business, and the Commission is unable to trace any of the company principals.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

While it could be reasonably presumed that this individual left Canada at the end of his one year permit, the time constraints prevented the Commission from checking with the Secretary of State for citizenship and of conducting additional verifications with a view to confirming the subject's departure, as well as of conducting overseas checks on the subject's wartime activities.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-38

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada at an unspecified port of entry in 1949 as a non-immigrant and was destined for employment in a specific province. The same department also reported that the subject was given landed immigrant status in 1951, and continued with the same employer in that province. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport with an address in the relevant province.

The records of his employer indicate he retired recently and is still residing at the address shown on his passport.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the overseas agencies for war records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks be made as to the subject's wartime activities.**

2- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-39

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada at an unspecified port of entry in 1949 as a non-immigrant. He was destined for a specific province where he was guaranteed employment in a major industry. It was also learned from the same department, that the subject was granted landed immigrant status in 1951 while still an employee of the same firm. The Department of External Affairs reported negative search results.

Inquiries were conducted at the firm where the subject was allegedly employed. The subject is not currently employed there, nor has he been for the past 10 years. Personnel records are retained for 10 years only at that firm.

The subject's name and address appear in local directories from 1949 to 1952 inclusive. Verifications at the address shown were to no avail. CPIC and MVB checks were also negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-40

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant destined for employment in a specific province. The same department also reported that the subject was given landed immigrant status in 1951 with the same employer shown as his destination. The Department of External Affairs reported negative search results.

A person believed to be identical to the subject has been located by the Commission in that province.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

Accordingly, the Commission *RECOMMENDS* that:

1- Checks against the subject be made with the Department of the Secretary of State.

2- Overseas checks should be made as to the subject's wartime activities.

3- The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-41

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. His destination was a specific province where he was guaranteed employment with a major industry. The same department also reported that the subject was granted landed immigrant status in 1951 with the same firm shown as his destination. The Department of External Affairs reported that the subject was subsequently granted Canadian passports.

The Commission conducted MVB searches and confirms the subject to be resident of Canada in 1986. The subject's name and address appear in 1986 local directories.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

3- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-42

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-43

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-44

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 as a landed immigrant. The subject was destined for a particular firm for employment. The Department of External Affairs reported negative search results.

The Commission conducted MVB searches and Vital Statistics (Marriages) with positive results.

The Commission confirmed that the subject was a resident of Canada in 1986.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-45

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-46

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as, destination. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories, Vital Statistics and local police indices searches against the subject. All search responses were negative.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-47

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada as a student, non-immigrant in 1949. The subject's father's residence in a specific suburban area was the indicated destination. The same department also reported that the subject was granted landed immigrant status in 1951, arriving in Canada and again destined for the father's residence. The Department of External Affairs reported negative search results.

Recent inquiries revealed that the subject is residing in Canada.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject under investigation: the subject would have been only about 10 years old at the outbreak of World War II.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-48

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948 as a non-immigrant. He was destined for a specific province where he was guaranteed employment in a major industry. The same department also reported that the subject was granted landed immigrant status in 1951, arriving in Canada with destination to the same company in that province. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport while residing in that province.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

External Affairs also reported that the subject's passport was returned to their department by a law firm who indicated that the subject died in 1966; however, they did not say where.

Efforts to obtain a death certificate from the province had negative results.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-49

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

While viewing documents the Commission came upon an official Canadian government letter from Germany, stating that the subject, having received a recent promotion in Germany, had declined to proceed to Canada.

In view of this information and of the negative reply from the Department of Employment and Immigration, no further checks were made.

On the basis of the foregoing, it is recommended that the file on the subject be closed.

CASE NO. S-50

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-51

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs, for citizenship and passport.

Accordingly, the Commission RECOMMENDS that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-52

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-53

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The Department of External Affairs reported negative search results.

Inquiries were conducted where the subject was destined to go but the firm is no longer in business. The Commission is unable to trace any of the firm's principals.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted searches at CPIC, MVB, Vital Statistics (Deaths) and local directories, with negative results.

It can reasonably be assumed that this subject left Canada in 1950 as he entered Canada in 1949 on a one year permit as a non-immigrant and there is a notation on a document that he returned to Germany in 1950. However, time constraints prevented the Commission from checking with the Secretary of State for citizenship and of conducting additional verifications with a view to confirming the subject's departure, as well as of conducting overseas checks on the subject's wartime activities.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-54

Name stricken from the list.

CASE NO. S-55

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. He was destined for a specific suburban area for employment in a small firm. The same department also reported that the subject was granted landed immigrant status in 1951. He was destined for a town where he was guaranteed employment in a major industry. The Department of External Affairs reported negative search results.

It was not possible to conduct inquiries at the company in question as it is no longer in existence.

The subject's name does not appear in local directories. Vital Statistics from 1955 to 1986 reported negative search results. No CPIC or MVB checks were made due to lack of information on a date of birth, and the subject's age.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-56

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-57

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-58

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-59

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1950 as a non-immigrant. The subject was destined for a particular firm for employment. The same department reported that the subject was granted landed immigrant status in 1951, while still an employee at the same firm. The Department of External Affairs reported negative search results.

Inquiries were conducted where the subject was allegedly employed, but they have no recollection or record of the subject having worked for the firm.

The Commission conducted searches at CPIC, MVB, Vital Statistics (Deaths) and local directories, with negative results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- Checks against the subject should be made with the Department of the Secretary of State.

2- Other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-59.1

This individual was brought to the attention of the Commission by the Department of Justice acting on a request from a researcher of a foreign country who was seeking information from documents likely available in Canada.

The subject of this file, an elderly German physician who entered the foreign country under a particular program had been accused of involvement during World War II in experiments on humans. It was suggested that the subject came to Canada for the purpose of emigrating to that foreign country.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain whether the subject had entered Canada, or applied for citizenship or a passport. All departments reported negative search results.

On the basis that the subject never entered Canada, it is recommended that the file on the subject be closed.

CASE NO. S-60

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-61

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was granted landed immigrant status in 1951, and was destined for another firm. The Department of External Affairs reported negative search results.

Inquiries were conducted in relation to the second firm where the subject was allegedly employed, but the Commission was unable to locate the firm or any of its principals.

The Commission conducted searches at CPIC, MVB, and Vital Statistics (Deaths) and local directories, with negative results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

The Commission accordingly *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-62

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948 as a non-immigrant. The subject was destined for a particular firm for employment. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as the subject's destination. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission investigation has resulted in locating the subject of this file residing in Canada.

It is to be noted that, due to time constraints, no overseas checks were done on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **Should these checks reveal that the subject was involved in war crimes activities, the case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-63

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1948 as a landed immigrant. The subject was destined for a government agency and a similar non-government institution, both in the same province. The same department also reported that the subject was admitted as a landed immigrant in 1951 with the same non-government institution shown as destination. The Department of External Affairs reported that the subject was subsequently granted a Canadian passport to visit a foreign country.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The subject's personal address in 1982 is given as a West European country.

On the basis that the subject is a resident of Europe, it is recommended that the file be closed.

CASE NO. S-64

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant and was destined to a major firm in a specific province. The same department also reported that the subject was given landed immigrant status in 1951 while still employed with the same firm. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

Verifications were made at CPIC, MVB, and Vital Statistics with negative results. The firm where the subject was employed was dissolved over 25 years ago and its records have been destroyed.

In view of the limited time remaining before the closing of the Commission, no verifications were made with the Secretary of State for citizenship nor with the overseas agencies for war records.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks against the subject should be made with the Department of the Secretary of State.**

2- **Other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-65

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-66

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-67

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-68

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. Both departments reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the Department of the Secretary of State for citizenship.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the Department of the Secretary of State for citizenship.**

2- **If this check proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-69

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1947 as a non-immigrant. The subject was destined to a firm in a specific province. The same department also reported that the subject was admitted as a landed immigrant in 1951, with the same firm being shown as destination. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories, Vital Statistics and local police indices searches against the subject. All search responses were negative.

The Commission's investigation led to interviewing co-workers and friends of the subject while he was employed in Canada. They advised the subject left Canada approximately 30 years ago for a foreign country and they have not heard from him since.

In view of the foregoing, it strongly appears that the subject did not return to reside in Canada.

Accordingly, the Commission *RECOMMENDS* that:

1- **Overseas checks should be made as to the subject's wartime activities.**

2- **Should these checks reveal that the subject was involved in war crimes activities, consideration should be given to submitting the name of the subject under investigation to the relevant foreign authorities.**

3- **If the inquiries respecting war crime activities prove negative, the file should be closed.**

CASE NO. S-70

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1951 as a non-immigrant. The subject was destined to a particular firm for a period of one year. The same department does not have any record of him receiving landed immigrant status. The Department of External Affairs reported negative search results.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

The Commission conducted CPIC, MVB, telephone directories, Vital Statistics and local police indices searches against the subject. All search responses were negative.

Inquiries were conducted at the firm where the subject was supposed to have worked. The Manager was unable to confirm or deny that the subject ever worked with his firm as the employment records are disposed of after ten years.

While it could be reasonably presumed this individual left Canada at the end of his one year permit, the time constraints prevented the Commission from checking with the Secretary of State for citizenship and of conducting additional verifications with a view to confirming the departure as well as of conducting overseas checks on the subject's wartime activities.

Accordingly, the Commission *RECOMMENDS* that:

1- Checks against the subject should be made with the Department of the Secretary of State.

2- Other investigative avenues should be explored with a view to locating the subject in Canada.

3- If the subject is not found in Canada, the file should be closed.

4- If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.

5- The case should then be re-assessed and a final decision taken, depending upon the results of such inquiries.

CASE NO. S-71

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the Department of Employment and Immigration to conduct checks to ascertain whether the subject had entered Canada. The reply to this request was negative.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the limited time remaining before the closing of the Commission, no checks were made with the departments of the Secretary of State and External Affairs for citizenship and passport.

Accordingly, the Commission *RECOMMENDS* that:

1- **Checks should be made against the subject with the departments of the Secretary of State and External Affairs for citizenship and passport.**

2- **If one of these checks proves positive, other investigative avenues should be explored with a view to locating the subject in Canada.**

3- **If the subject is not found in Canada, the file should be closed.**

4- **If the subject is found in Canada, inquiries should be made in Canadian files and overseas as to the subject's wartime activities.**

5- **The file should then be re-assessed and a final decision taken, depending upon the results of such inquiries.**

CASE NO. S-72

This individual was brought to the attention of the Commission as a result of research of documentation in Canada dealing with the admission to Canada of German scientists and technicians.

The Commission requested the departments of Employment and Immigration and External Affairs to conduct checks to ascertain whether the subject had entered Canada or applied for a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1949 as a non-immigrant. He was destined to a specific province with employment in a specific field. The same department also reported that the subject was admitted as a landed immigrant in 1951, destined to the same employer. The Department of External Affairs reported that the subject was subsequently granted Canadian passports; all of these passports indicated a foreign address.

The Commission conducted searches at MVB, telephone directory and Vital Statistics, all with negative results. Long distance operator confirmed the foreign country address.

Inquiries at the subject's employer indicated that the subject was employed with it for two years. When the subject left this employment he gave the foreign country address mentioned by External Affairs.

The Commission also conducted searches of the United Nations War Crimes Commission files in New York which met with negative results.

In view of the foregoing, it strongly appears that the subject does not reside in Canada, but is a resident of a foreign country; it is accordingly recommended that this file be closed.

4) *Future action*

In 96 per cent of the cases which the Commission has investigated, it has not communicated with the suspects. The latter have not been made aware of the Commission's interest. There is no reason to alert now, especially, the 606 people, or their successors, whose files the Commission recommends should be closed.

A small number of suspects are, however, in a different situation. Twenty-nine have been summoned for interrogation by the Commission and several of them have expressed an interest, either personally or through their counsel, in the eventual recommendations of the Commission. This concern is understandable and legitimate. Those recommendations are all found in Part II of this Report. Where the government will agree that some proceedings be initiated against one suspect or another, these will of course be advised soon enough. But where the government will agree that a file should be closed, it is the Commission's view that word of that decision should be transmitted to the individual concerned and his counsel. There are nine such cases. The matter has lasted long enough: those individuals deserve to be advised that, insofar as Canada is concerned, they can finish their days in peace. The 20 other cases in Part II should be disposed of with all due dispatch.

The Commission accordingly *RECOMMENDS* that:

77- **In the 9 cases where the Commission recommends, in Part II of its Report, that no prosecution be initiated and the file be closed, the Government of Canada, where it agrees with the recommendation, should so advise the individual suspect and his or her counsel.**

78- **In the 20 other cases where the Commission recommends, in Part II of its Report, that steps be taken toward either revocation of citizenship and deportation or criminal prosecution, urgent attention should be given to implementing those recommendations and, if necessary for that purpose, to bringing the necessary amendments to**

the law as well as actively seeking the co-operation of the interested foreign governments.

In spite of the cleaning up which the Commission is confident to have achieved, there remains work to be done:

Part I of the Report:

5 cases where the suspect should be interrogated;

8 cases where interrogation should be coupled with a search for evidence in France, Romania, U.S.S.R., and Yugoslavia (subject to a policy decision by the Canadian government);

83 cases where a search for evidence should be pursued in Hungary, Poland, Romania, U.S.S.R., West Germany and Yugoslavia (subject to the same policy decision);

6 cases where a search for evidence should be pursued in more than one country, including also Czechoslovakia, Israel and the U.S.A (subject to the same policy decision);

38 cases in the Addendum, where the investigation here and abroad has not or has barely begun;

55 cases on the List of German scientists and technicians where inquiries should be pursued both here and abroad.

Part II of the Report:

1 case where extradition should be considered with Czechoslovakia;

18 cases where witnesses should be examined or a search for evidence should be pursued in Czechoslovakia, Hungary, Poland, U.S.A., U.S.S.R. and West Germany.

Assuming a governmental decision to go ahead, it is clear that another monumental effort will be required to forge ahead with speed, organize work, assess the results and counsel the government as each case ripens.

Faced with a similar situation, the U.S.A. have set up within their Department of Justice an Office of Special Investigations, clothed with both investigative and prosecutorial authority. This formula presents undeniable advantages: acquisition of experience, centralization of decisions, streamlining of the whole process from denunciation to conviction. But serious difficulties have arisen which tend to outweigh those advantages; and they are growing out of the very fabric of the matter of Nazi war criminals. Without insisting more than necessary, the Commission only wishes to recall the noisy clashes between Jewish organizations and Eastern European groups as well as the never-ending debates over the reception of Soviet-supplied evidence and the alleged co-operation between the OSI and the KGB. The Commission has seen by itself that the same ingredients of dissention are at work in this country.

Creating an OSI in Canada would be courting dangers which must be avoided at all costs: internal peace between the various ethnic groups which form now such an important part of the population of Canada is more important, in the long run, for the good of this country than results which may be more spectacular in the short run, but are likely to inflict serious and possibly incurable wounds. Furthermore, the decision to prosecute ought to be left where it is now: in the hands of the Attorney General of Canada and this power should not be diluted.

This, however, does not mean that no special effort is required to achieve the results at which the Commission's recommendations are directed; quite to the contrary. But it means that a determined effort could achieve those results within the framework of the Canadian institutions as they exist. One condition is paramount: that there be a political will to act. The Department of Justice and the RCMP should be able to handle the job.

Two difficulties must, however, be tackled:

i- Reference has been made earlier to the opportunity of carrying several interrogatories of suspects. A Commission of Inquiry has the power so to proceed; this Commission has indeed used repeatedly that power. Officials of the Department of Justice do not enjoy the same privilege. Should they so wish, they could invite an individual to submit to an interrogation; but this individual would be under no obligation to agree, he could not be forced to give evidence under oath and, should he consult a lawyer, it is highly probable that he would be advised not to accept the "invitation".

In order to benefit from the suspects' interrogatories, the only avenue would be to continue this Commission in existence and to renew its mandate.

ii- Assuming that, in any event, the task would be entrusted to the Department of Justice and the RCMP, heavy resources should be resolutely put at their disposal. Both human and financial resources are, in this field of endeavour, an essential ingredient of success; witness the results both obtained and yet to be achieved by a Commission of Inquiry which employed during over twenty-one months:

one full-time Commissioner;*
one full-time secretary;
seven part-time lawyers;
five full-time investigators;
two full-time researchers and historians;
one full-time director of administration and security;
and a full-time clerical staff.

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* Away, however, for three months due to illness and surgery.

The answer, therefore, does not lie in instructing one or two departmental lawyers and one or two police officers to follow-up the Commission's recommendations. One official of the Department of Justice must be given full authority over this particular job; this official must be able to rely on the full-time co-operation of a substantial team of lawyers, historians and police officers; this official must have access to ample financial resources, in view of the considerable tasks to be performed abroad as well as across the country; this official must be responsible for advice in matters of war crimes to the Attorney General of Canada, through his Deputy.

The Commission accordingly *RECOMMENDS* that:

79- **In all cases which still appear as outstanding in both Parts of the Commission's Report, the Government of Canada should take the necessary steps in order to pursue the interrogatories and inquiries, in Canada and abroad, which the Commission has indicated, and to bring each case to a close.**

80- **It should not be necessary nor indeed commendable to create for that purpose an organization similar to the Office of Special Investigations in Washington, D.C.**

81- **The Government of Canada might consider one or the other of the following options:**

  i) **to give to the Department of Justice and to the RCMP a specific mandate bolstered by the following commitments:**

    a) **one official of the department to be given full authority;**

    b) **a full-time team of several lawyers, historians and police officers to be set up;**

    c) **ample financial resources to be supplied, in view of the considerable tasks to be performed across Canada and abroad;**

    d) **the responsible official to advise the Attorney General of Canada, through his Deputy, in matters of war crimes; or**

  ii) **to renew the mandate of this Commission which possesses the power, among others, to summon the suspects and other witnesses for interrogation.**

82- **Should none of those options be retained, there would appear to be no other alternative but to close the whole matter of war criminals altogether.**

Chapter I-9

POSTSCRIPTUM

Chapter I-9

POSTSCRIPTUM

One of the questions asked of the Commission by the Order-in-Council of 7 February 1985 was "when and how they [war criminals] obtained entry to Canada".

In a sense, the Commission has answered the question in the present Report. In each one of the several hundred cases which are dealt with individually, the interested reader will find, in general terms in the Report, and with full particulars in the Commission's files, all relevant data: point of departure, means of transportation, point of arrival, date of landing, persons accompanying the immigrant, point of destination in Canada, etc. But the Commission is convinced that more than that was expected. Indeed, in public hearings, the Commission has heard evidence about the immigration policies which were in force during the immediate post-war years and, later, the conduct of visa control officers and security officers abroad and at home. This information was completed by secret evidence which was conveyed to the Commission during *in-camera* hearings concerning specific incidents.

Out of all that evidence, both general and particular, a grand picture could be drawn showing not only how individual suspects obtained entry into Canada, but what was the evolution of the policies which may have at times prevented, at other times favoured, such entry. Unfortunately, time did not permit the Commission to carry that study to fruition. There is no point in belabouring the issue now: the Report speaks for itself and shows where the Commission's efforts had to be concentrated.

The Commission feels, however, that it should not exaggerate in the direction of modesty. Among the various studies which it has mandated, there is one which deals directly with this aspect of the Commission's terms of reference: "Nazi War Criminals in Canada: the Historical and Policy Setting from the 1940s to the Present", by Mrs. Alti Rodal. This substantial study no doubt constitutes an outstanding contribution to the knowledge of this particular question and deserves wide distribution.

Should the Canadian government wish still a more complete examination of the matter, it ought then to appoint a professional historian to make a thorough study of the question: the evidence and the material gathered by the Commission would prove of considerable help and interest towards this task.

Since this Report went to press, some further information has reached the Commission from abroad in cases 194 and 540. Opinions in these two cases are therefore appended to this concluding chapter.

CASE NO. 194

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a newspaper article. It was alleged that the subject had been a Nazi collaborator in an Eastern European country. Investigation by the Commission revealed some ambiguous documentation that the subject may either have been a guard or an inmate in an Eastern European camp.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada and whether he applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1957. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1964. The Department of External Affairs reported that it had no record of the subject.

The Commission conducted CPIC and MVB searches against the subject. Though the CPIC search response was negative, the MVB search produced positive results. The Commission determined the subject to be resident in Canada in 1986.

Commission reviewed materials available from RCMP files and CSIS files, and determined that the subject had made a statement describing his service in the military, his capture by opposing forces and his treatment in their concentration camps, from which he was released and returned to Western Europe in 1956.

Commission confirmed that neither the Central Information Office of the Federal Archives in Aachen-Kornelimünster, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, nor the Berlin Sick Book Depository had any record of the subject.

The Berlin Document Center reported however, that the subject served in the Waffen-SS and reached a particular rank. Its records confirm the subject's statement regarding being captured and subsequently released.

The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported it has a record of a person with a similar name being a watchman in a certain concentration camp, but no evidence of any violent crimes. It concluded its investigation which, indeed, would seem to concern a different person. The alleged camp is nowhere near where this Waffen-SS member would have served. Other documentation with regard to the subject merely confirms his membership in the Waffen-SS.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. Furthermore, it seems unlikely that the relevant authorities have any interest in the subject, otherwise they would not have been prepared to release him from their detention camp in 1956. Under those circumstances, the Commission did not inquire from the relevant authorities whether they might possess some evidence in support of the allegations of war crimes against the subject. That possibility nevertheless exists and should not be discounted.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, due to the circumstances particular to this case, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the results of such inquiry.**

CASE NO. 540

This individual was brought to the attention of the Commission by the RCMP, whose source of information was a private citizen. The private citizen had reported that this individual was born in an Eastern European country of parents of another nationality and had immigrated to a West European country following the commencement of hostilities in 1939. It was alleged that this individual was a member of the SS, and had executed civilians during a specific ghetto incident. This individual was reported to be resident at a specified address in Canada.

The Commission requested the departments of Employment and Immigration, the Secretary of State and External Affairs to conduct checks to ascertain when the subject had entered Canada, and whether he had applied for citizenship or a passport. The Department of Employment and Immigration reported that the subject entered Canada in 1970. The Department of the Secretary of State reported that the subject was granted Canadian citizenship in 1976. The Department of External Affairs reported negative search results.

The Commission conducted an MVB search against the subject with positive results. The Commission also conducted local inquiries and confirmed the subject to be resident at the address specified in Canada.

The Commission conducted checks at the Berlin Document Center, the Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, the German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, the Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, and the Berlin Sick Book Depository. All searches produced positive responses.

The Berlin Document Center reported specific registration details involving the subject.

The Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes in Ludwigsburg, West Germany, reported specific details about the subject's wartime history and that the subject had been investigated concerning a particular event. There was no evidence to establish the subject's participation in the event.

The German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt) in Berlin, confirmed certain wartime facts concerning the subject.

The Central Information Office of the Federal Archives in Aachen-Kornelimünster, West Germany, confirmed certain wartime data about the subject as well.

The Berlin Sick Book Depository also reported certain details about the subject's war experiences.

The Commission determined that the United Nations War Crimes Commission files had records in respect of a number of individuals with the same surname as the subject. It appeared that only one record may have related to the subject, that of an individual of unknown rank who was accused by an Eastern European government of pillage while acting in a certain capacity in a specific region in the period between 1939 and 1944. The charges specified that the Jewish population of the region was exterminated by the Nazis in a particular concentration camp. In addition, the government charged that the Jewish population was ghettoized, and subjected to other atrocities including beatings, starvation, property confiscation, and deportation. Although the region was the birthplace of the subject, there is insufficient evidence to conclude whether or not he was the individual described in the United Nations War Crimes Commission files.

The Commission inquired of a foreign police force as to whether they had any information in respect of the subject. It reported that an individual with the same surname as the subject held a certain position in a particular concentration camp, was a guard in a certain prison, and was wanted for murder by another West European country. Upon reviewing the available evidence, the Commission was unable to determine whether or not he was the individual described by the foreign police force contacted by the Commission.

On the basis of the available evidence, there is no *prima facie* case of war crimes against the subject. However, for the reasons noted in chapter I-5 of this report: "Methodology", the Commission did not inquire from the relevant Eastern Bloc authorities whether they might possess some evidence in support of the allegations against the subject.

The Commission accordingly *RECOMMENDS* that:

1- **Should the Government of Canada not wish, as a matter of policy, to submit the name of the subject to the relevant Eastern Bloc government or to the appropriate archival centres, the file ought to be closed.**

2- **Should, however, the Government of Canada decide to submit the subject's name to the relevant government, or to the appropriate archival centres, the matter ought then to be re-assessed and a final decision taken, depending upon the result of such inquiry.**

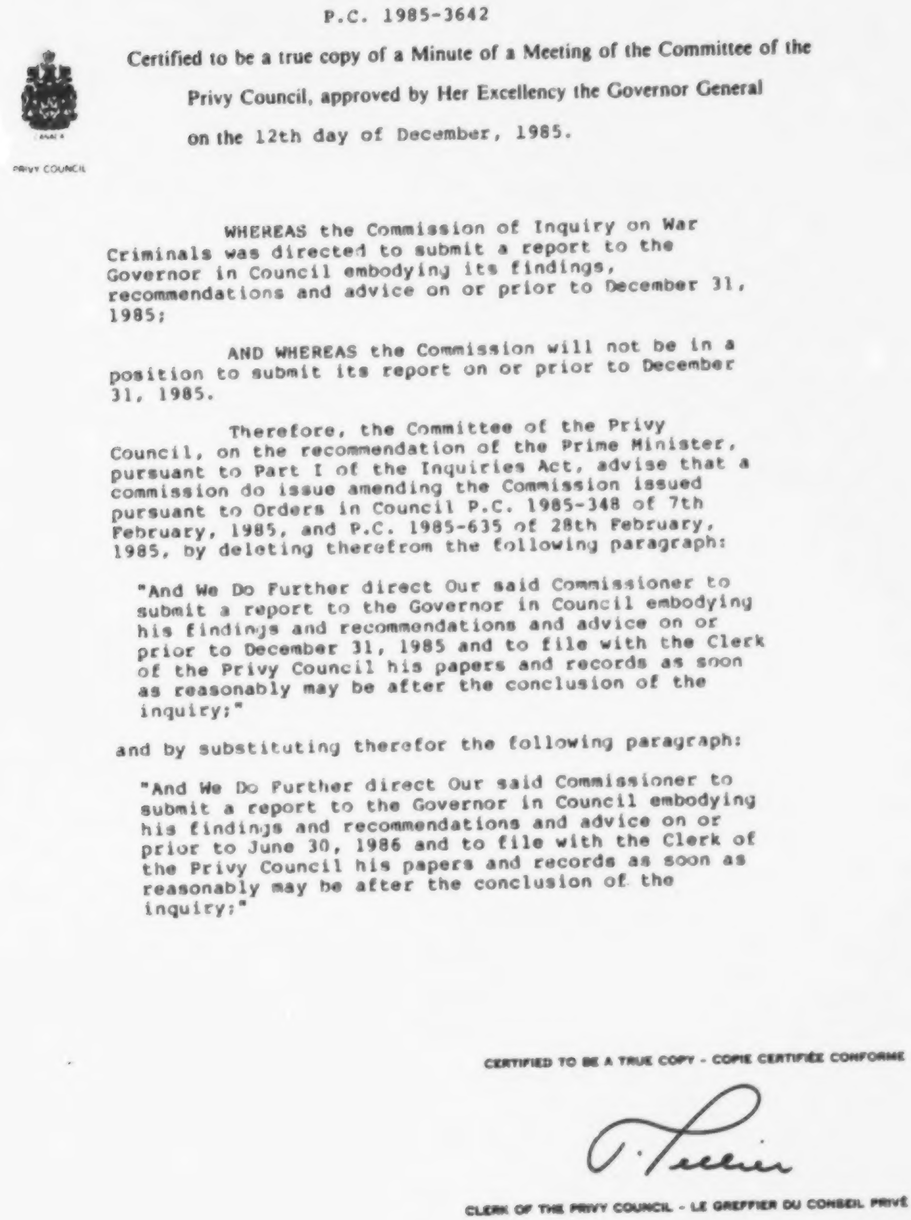
APPENDICES

APPENDICES

I-A	Order-in-Council P.C. 1985-3642, 12 December 1985
I-B	Order-in-Council P.C. 1986-1333, 5 June 1986
I-C	Rules of practice and procedure
I-D	Applications for standing before the Commission
I-E	Outside counsel in public hearings
I-F	Public hearings of the Commission
I-G	Witnesses in public hearings
I-H	Submissions in public hearings
I-I	List of studies done at the request of the Commission
I-J	Departments and agencies of Government of Canada which have supplied information to the Commission
I-K	Departments and agencies of foreign governments and foreign quasi-public voluntary organizations which have supplied information to the Commission
I-L	Order-in-Council P.C. 1985-1206, 4 April 1985
I-M	Decision concerning foreign evidence, 14 November 1985
I-N	Oral decision concerning case number 276, 25 March 1986
I-O	Oral decision concerning case number 689, 4 July 1986
I-P	**Narvey and the Commission of Inquiry on War Criminals,** the Federal Court of Canada, Trial Division, (Cullen, J.), 30 January 1986
I-Q	**League for Human Rights of B'nai Brith Canada and the Commission of Inquiry on War Criminals,** the Federal Court of Canada, Trial Division, (Cullen, J.), 10 February 1986
I-R	**League for Human Rights of B'nai Brith Canada and the Commission of Inquiry on War Criminals,** the Federal Court of Appeal, 9 May 1986
I-S	**The Privacy Commissioner and the Minister of National Health and Welfare,** 30 May 1986
I-T	Order-in-Council P.C. 1986-2255, 30 September 1986

APPENDIX I-A

ORDER-IN-COUNCIL P.C. 1985-3642



P.C. 1985-3642

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by Her Excellency the Governor General on the 12th day of December, 1985.

PRIVY COUNCIL

WHEREAS the Commission of Inquiry on War Criminals was directed to submit a report to the Governor in Council embodying its findings, recommendations and advice on or prior to December 31, 1985;

AND WHEREAS the Commission will not be in a position to submit its report on or prior to December 31, 1985.

Therefore, the Committee of the Privy Council, on the recommendation of the Prime Minister, pursuant to Part I of the Inquiries Act, advise that a commission do issue amending the Commission issued pursuant to Orders in Council P.C. 1985-348 of 7th February, 1985, and P.C. 1985-635 of 28th February, 1985, by deleting therefrom the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to December 31, 1985 and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;"

and by substituting therefor the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to June 30, 1986 and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;"

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

APPENDIX I-B

ORDER-IN-COUNCIL P.C. 1986-1333

P.C. 1986-1333

PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by Her Excellency the Governor General on the fifth day of June, 1986.

WHEREAS the Commission of Inquiry on War Criminals was directed to submit a report to the Governor in Council embodying its findings, recommendations and advice on or prior to June 30, 1986;

AND WHEREAS, due to the delays induced in the Commission's work by the health of the Commissioner, the necessity has arisen to provide the Commission with additional time to prepare and submit its final report;

Therefore, the Committee of the Privy Council, on the recommendation of the Prime Minister, pursuant to Part I of the Inquiries Act, advise that a commission do issue amending the Commission issued pursuant to Orders in Council P.C. 1985-348 of 7th February, 1985, P.C. 1985-635 of 28th February, 1985, and P.C. 1985-3642 of 12th December, 1985, by deleting therefrom the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to June 30, 1986, and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;"

and by substituting therefor the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to September 30, 1986, and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;".

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

P. Tellier

CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

APPENDIX I-C

RULES OF PRACTICE AND PROCEDURE

1. There are no contesting parties before the Commission.

2. The Commission shall sit in public or *in camera*, at its sole discretion.

3. Attendance at sittings *in camera* shall be restricted to the Commission, its counsel and personnel and relevant witnesses. The Commission may allow the presence of other persons, at its sole discretion.

4. The Commission shall hear only its own witnesses, who shall be examined by Commission counsel. Interested persons may, however, suggest to the Commission the names of other relevant witnesses; the Commission shall decide.

5. A witness who is not conversant with either English or French may avail himself of the services of an interpreter, upon reasonable notice to the Commission. The Commission shall supply such interpreter, at its own expense.

6. There shall be two lists of exhibits, numbered consecutively: one for public sittings, marked "P", the other for sittings *in camera*, marked "C".

7. Access to list P and its exhibits shall be open during daytime office hours in the presence of a Commission representative. Access to list C and its exhibits shall be restricted to the Commission, its counsel and personnel, saving written authorization by the Commission.

8. Transcripts of the proceedings in public sittings shall be available upon payment of the usual reporting fee. Transcripts of proceedings *in camera* shall not be made available, and their access or distribution shall be prohibited other than to the Commission, its counsel and personnel, saving written authorization by the Commission.

9. The Commission may grant standing to outside parties or their counsel, at its sole discretion and for such sittings or purposes as it may decide. Once granted standing, such party or counsel may cross-examine witnesses on matters relevant to their interest.

10. Where a person appears before the Commission for the purpose of submitting observations or suggestions, the Commission shall decide in its sole discretion when it has been sufficiently informed.

Ottawa, 10 April 1985.

APPENDIX I-D

APPLICATIONS FOR STANDING BEFORE THE COMMISSION

Association of Survivors of Nazi Oppression

Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada*

Canadian Holocaust Remembrance Association

Canadian Jewish Congress*

Canadian League for the Liberation of the Ukraine

Canadian Serbian National Committee

Croatian Committee for Human Rights

Jewish Defence League

League for Human Rights of B'nai Brith Canada*

North American Jewish Students' Network – Canada

Simon Wiesenthal Center

Ukrainian Canadian Committee*

Ukrainian National Federation of Canada

Ukrainian Youth Association of Canada

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* Granted.

APPENDIX I-E

OUTSIDE COUNSEL IN PUBLIC HEARINGS

Fraser Berrill	Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada
Ian Binnie, Q.C.	Government of Canada
Y.R. Botiuk, Q.C.	Ukrainian National Federation of Canada *and* Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada
Susan Charendoff	League for Human Rights of B'nai Brith Canada
Professor Irwin Cotler	Association of Survivors of Nazi Oppression *and* Canadian Jewish Congress
Charles Dalfen	Canadian Jewish Congress
Sean Dumphy	Ukrainian Canadian Committee
Alexander Epstein	Marika Bandera
Laurence Greenspan	Sol Littman
John Gregorovich	Civil Liberties Commission of Ukrainian Canadian Committee
Paul Jewell	Canadian Serbian National Committee
Jules Kronis	League for Human Rights of B'nai Brith Canada
Marvin Kurz	League for Human Rights of B'nai Brith Canada
Stephen LeDrew	Honourable Robert Kaplan, P.C.
Israel Ludwig	League for Human Rights of B'nai Brith Canada
Professor Joseph Magnet	Canadian Jewish Congress
Ms. Judith McCann	Government of Canada
Morris Manning, Q.C.	Canadian Jewish Congress
David Matas	League for Human Rights of B'nai Brith Canada
Myles O'Bradovich	Canadian Serbian National Committee
Clay Powell, Q.C.	Brotherhood of Veterans of the lst Division of the Ukrainian National Army in Canada
Bert Raphael	League for Human Rights of B'nai Brith Canada
M.J. Silverstone	Canadian Jewish Congress
John Sopinka, Q.C.	Ukrainian Canadian Committee
I.G. Whitehall, Q.C.	Government of Canada

APPENDIX I-F

PUBLIC HEARINGS OF THE COMMISSION

HEARING #	*LOCATION*	*DATE*
		1985
1	Ottawa	10 April
2	Ottawa	11 April
3	Toronto	24 April
4	Toronto	25 April
5	Ottawa	1 May
6	Ottawa	3 May
7	Montreal	6 May
8	Ottawa	8 May
9	Ottawa	9 May
10	Hull	13 May
11	Hull	14 May
12	Hull	15 May
13	Winnipeg	22 May
14	Hull	10 June
15	Hull	9 July
16	Hull	10 July
17	Hull	11 July
18	Hull	23 September
19	Hull	2 October
20	Hull	3 October
21	Hull	9 October
22	Hull	10 October
23	Hull	3 December
24	Hull	4 December
25	Hull	5 December
26	Hull	6 December
		1986
27	Hull	5 May
28	Hull	6 May

APPENDIX I-G

WITNESSES IN PUBLIC HEARINGS

WITNESS	*ORGANIZATION OR DEPARTMENT*
Marc Baudouin	Department of External Affairs
George Melvin Bailey	Royal Canadian Mounted Police, Retired
Susan Bertrand	Department of Employment and Immigration
Eldon Black	Department of External Affairs
Harvey Blythe	Royal Canadian Mounted Police
Marcel Bourgault	Department of Employment and Immigration
Maurice Hamilton Brush	Department of Employment and Immigration
Angus Alexander Cattanach	Justice of the Federal Court of Canada, Retired
Terence Gordon Cook	Public Archives of Canada
William Howard Corbett	Department of Justice
Gérald de la Durantaye	Centre of Forensic Sciences, Ontario
William Alexander Binny Douglas	Department of National Defence
Gordon Francis Frazer	Privy Council Office, Retired
Lois Gile	Department of Secretary of State
Albert Lloyd Greening	Royal Canadian Mounted Police, Retired
Robert J. Hayward	Public Archives of Canada
Peter Hoffmann	Professor, McGill University
Robert Kaplan, P.C.	Member of Parliament
Frank Karwandy	Judge Advocate General, Department of National Defence
Anthony Keenleyside	Barrister and Solicitor
George Joseph Kelly	Canadian Security Intelligence Service
William H. Kelly	Royal Canadian Mounted Police, Retired
Catherine Joan de Wolfe Lane	Department of Secretary of State
Gordon Lebeau	Department of Employment and Immigration

WITNESS	*ORGANIZATION OR DEPARTMENT*
Sol Littman	Friends of the Simon Wiesenthal Center for Holocaust Studies
Martin Low	Department of Justice
Jim Mallen	Department of Employment and Immigration
Bruce J.S. MacDonald	Judge of the District Court of Ontario, Retired
John McCordick	Department of External Affairs
James McLaughlin	Department of External Affairs
John McPherson	Ontario Provincial Police, Retired
Alfred C. Naylor	External Affairs Foreign Service
George O'Leary	Department of Employment and Immigration
Gilles Pommainville	Public Archives of Canada
Joseph Roland Robillard	Department of Employment and Immigration
Louis Sabourin	Department of Employment and Immigration
Randolf Roland Schramm	Royal Canadian Mounted Police
Cyril Angus Webster	Department of Transport
Daniel Webster	Royal Canadian Mounted Police, Retired
Keith Wellstead	Ontario Provincial Police
William John Wylie	Royal Canadian Mounted Police
Wayne Frederick Yetter	Royal Canadian Mounted Police

APPENDIX I-H

SUBMISSIONS IN PUBLIC HEARINGS

Berkowitz, Alex

Brotherhood of Veterans of the 1st Division of the Ukrainian National Army in Canada
by Y.R. Botiuk

Canadian Holocaust Remembrance Association
by Sabina Citron

Canadian Jewish Congress
by Alan Rose, Irwin Cotler

Information and Anti-Defamation Commission of the Ukrainian Canadian Committee (Montreal Branch)
by Roman Serbyn

Committee of Canadian Ukrainian Prisoners
by Michael Marunchak

Dutka, Bohdana

Estonian Central Council in Canada
by Lass Leivat

Jewish Defence League
by Meir Halevi

Latvian National Federation of Canada
by Linard Lukss

League for Human Rights of B'nai Brith Canada
by Frank Dimant, David Matas and Bert Raphael

North American Jewish Students' Network – Canada
by Kenneth Narvey and Naomi Jacobs

Riwash, Joseph

Simon Wiesenthal Center
by Archie Rabinowitz and Sol Littman

Ukrainian Canadian Committee
by John Sopinka

Vastokas, Ron

Weiss, Philip

Working Group on the Deschênes Commission
by Vida Zalnieriunas

APPENDIX I-I

LIST OF STUDIES DONE AT THE REQUEST OF THE COMMISSION

La poursuite des criminels de guerre nazis en vertu du droit canadien actuel
Jacques Bellemare (avec Louise Viau et Daniel Turp)

Denaturalization and Deportation of War Criminals
Donald P. Bryk

Bringing Nazi War Criminals to Justice? A Comparative Analysis of the Policies Used by Selected National Governments in Europe and North America to Bring to Justice Those Nazis or Their Collaborators Accused of Committing War Crimes, 1939-1945
Donald M. Caskie

New Legislation concerning war crimes - Part I: 8 October 1985, Part II: 29 October 1985
Gowan T. Guest, (with Messrs. Festinger, Redmond, Chesman and Kirkham).

Action Against War Criminals under Existing Law
John I. Laskin

Extradition in the Absence of Treaty
E. Neil McKelvey

Nouvelle législation relative aux crimes de guerre
Michel Proulx

Nazi War Criminals in Canada: The Historical and Policy Setting from the 1940s to the Present
Alti Rodal

Deportation and Denaturalization of War Criminals in Canada
Sharon A. Williams

APPENDIX I-J

DEPARTMENTS AND AGENCIES OF GOVERNMENT OF CANADA WHICH HAVE SUPPLIED INFORMATION TO THE COMMISSION

Public Archives of Canada

Department of Employment and Immigration

Department of External Affairs

Department of Justice

Department of National Defence

Department of the Secretary of State (Citizenship Branch)

Department of the Solicitor General

Canadian Police Information Centre

Canadian Security Intelligence Service

Privy Council Office

Royal Canadian Mounted Police

APPENDIX I-K

DEPARTMENTS AND AGENCIES OF FOREIGN GOVERNMENTS AND FOREIGN QUASI-PUBLIC VOLUNTARY ORGANIZATIONS WHICH HAVE SUPPLIED INFORMATION TO THE COMMISSION

United Nations War Crimes Commission Archives (New York)

International Refugee Organization (Geneva)

Ministry of Justice of the Netherlands (The Hague)

The Procurator General of the U.S.S.R. (Moscow)

Chief Prosecutor's Office, Main Commission for Investigation of Nazi War Crimes in Poland (Warsaw)

U.K. Ministry of Defence and British Public Records Office (London)

Ministère de la défense (Paris)

Direction des services d'archives (Toulouse, France)

Office of Special Investigations (Department of Justice - Washington)

Central Information Office of the Federal Archives (Aachen-Kornelimünster, F.R.G.)

Berlin Sick Book Depository (Berlin)

Central Office of Land Judicial Authorities for the Investigation of National-Socialist Crimes, (Ludwigsburg, F.R.G.)

German Military Service Office for notifying the next of kin of members of the former German Wehrmacht (WASt, Berlin)

Berlin Document Center (Berlin)

National Unit of Criminal Investigations, Section for Investigation of Nazi Crimes, Israel Police (Tel Aviv)

Yad Vashem, The Holocaust Martyrs' and Heroes' Remembrance Authority (Jerusalem)

Simon Wiesenthal – *Dokumentationszentrum* (Vienna)

Centre de documentation juive contemporaine (Paris)

APPENDIX I-L

ORDER-IN-COUNCIL P.C. 1985-1206

P.C. 1985-1206
4 April, 1985

CANADA

PRIVY COUNCIL • CONSEIL PRIVÉ

HER EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Justice, pursuant to paragraph 77(1)(d) of the Privacy Act, is pleased hereby to amend the Privacy Regulations, made by Order in Council P.C. 1983-1668 of 2nd June, 1983, in accordance with the schedule hereto.

REGISTRATION – ENREGISTREMENT
No SOR/85-345 DATE 9 April, 1985
REGISTRAR OF STATUTORY INSTRUMENTS
CANADA
REGISTRAIRE DES TEXTES RÉGLEMENTAIRES

CERTIFIED TO BE A TRUE COPY – COPIE CERTIFIÉE CONFORM

Gordon F. Osbaldeston

CLERK OF THE PRIVY COUNCIL – LE GREFFIER DU CONSEIL PRI

1985-550
(SOR/DORS)

SCHEDULE

1. Schedule II to the Privacy Regulations is amended by adding thereto, immediately after item 8 thereof, the following item:

"9. Commission of Inquiry on War Criminals"

1985-550
(SOR/DORS)

EXPLANATORY NOTE

(This note does not form part of the Regulations.)

This amendment adds the Commission of Inquiry on War Criminals to the list of investigative bodies for the purposes of paragraph 8(2)(e) of the Privacy Act.

APPENDIX I-M

DECISION CONCERNING FOREIGN EVIDENCE

Ottawa, 14 November 1985.

On 13 September 1985 the Commission sent to counsel a memorandum which, in its relevant part, read as follows:

> The Commission is currently considering, out of its list of suspects, the cases of eight persons who are residing in Canada and against whom serious allegations of war crimes have been made. It appears that evidence concerning those persons is available in the Netherlands, the United Kingdom, the U.S.A., Poland and the U.S.S.R.
>
> Before reaching a decision, the Commission wishes to hear your views as to the legality and advisability of collecting such evidence abroad.

Counsel were heard on September 23 and October 3 and 10.

* * *

The Commission is fully conscious of the emotions which a discussion of this question is bound to stir, especially among the Canadians who have known in their own flesh the crimes on account of which the Commission was created.

For instance, the Commission has heard, among others, Professor Ron Vastokas, 49, anthropologist, who spent three years in a Displaced Persons camp in Germany, under and after Hitler;[1] Mr. Alex Berkowitz, 54, telecommunications engineer, who survived the Berkonow ghetto, the Anina coal mine and four concentration camps;[2] Mr. Phillip Weiss, 63, manufacturer of industrial furniture, who survived three concentration camps;[3] Dr. Michael Marunchak, 71, graduate in law and social worker, who spent three years in five concentration camps.[4] Those gentlemen were deeply marked by their experience. They, and their relatives and friends, have not forgotten.

They are, however, but examples of large sectors of the Canadian population where quite conflicting views are most vigorously expressed as soon as the possibility of this Commission hearing foreign evidence, especially Soviet-supplied, is raised.

Yet the crimes which are alleged against certain individuals residing in Canada were committed abroad, documents and eyewitnesses are scattered in many countries, and the question of "foreign evidence" cannot be avoided.

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[1] Evidence, p. 1549, pp. 1564-1565.

[2] *Ibid.*, pp. 1390-1391.

[3] *Ibid.*, p. 1403.

[4] *Ibid.*, p. 1414.

This is especially true in light of the international obligations which Canada has undertaken in its quality of member of the United Nations Organization.

As early as 1946 the General Assembly of the United Nations devoted its third resolution to *Extradition and Punishment of War Criminals*,[5] recommending:

> that Members of the United Nations forthwith take all the necessary measures to cause the arrest of those war criminals who have been responsible for or have taken a consenting part in the above crimes, and to cause them to be sent back to the countries in which their abominable deeds were done, in order that they may be judged and punished according to the laws of those countries;

In 1947 the General Assembly again[6]

> [r]ecommends Members of the United Nations to continue with unabated energy to carry out their responsibilities as regards the surrender and trial of war criminals;

At least five further resolutions to the same effect were adopted by the General Assembly from 1969 to 1973.[7]

On 11 November 1970 there entered into force the 1968 *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity*,[8] which provides for the lifting of statutory limitations with respect to war crimes and crimes against humanity.

Finally, on 3 December 1973, the General Assembly adopted its *Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity*.[9] More particularly, principles 1 and 6 provide:

> 1. War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment.
>
> 6. States shall co-operate with each other in the collection of information and evidence which would help to bring to trial the persons indicated in paragraph 5 above and shall exchange such information.

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[5] Resolution 3(I), 13 February 1946.

[6] Resolution 170(II), 31 October 1947.

[7] Resolution 2583(XXIV), 15 December 1969.
Resolution 2712(XXV), 15 December 1970.
Resolution 2840(XXVI), 18 December 1971.
Resolution 3020(XXVII), 18 December 1972.
Resolution 3074(XXVIII), 3 December 1973.

[8] Canada is not a party to that *Convention*, which had been ratified by 29 states as of 31 December 1984. It is nonetheless indicative of a trend of thought in the international community.

[9] Resolution 3074(XXVIII), 3 December 1973.

Canada must of course honour those international objurgations and commitments, albeit they must be read in parallel with the provisions of Canadian domestic law.

Keeping, therefore, in mind the Canadian situation, viewed in the light of applicable principles of international law, the Commission has now considered the arguments presented by counsel, together with the numerous submissions which it had received from various parties since the beginning of this inquiry. It now proposes to deal with them with all possible equanimity and it hopes that its decision will be received in the same spirit.

The Commission will first discuss the question of legality; then the question of advisability.

1) On legality

Nobody has directly challenged the power of this Commission to hear and collect foreign evidence; quite the contrary.

During the course of his testimony, the Honourable Robert P. Kaplan, P.C., former Solicitor General of Canada, was led to consider the use of Soviet evidence in U.S. proceedings; he answered: "The evidence is legally admissible, of course."[10]

Then, turning to the work of this Commission, Mr. Kaplan added:[11]

> I think it [the Commission] should decide on the basis of normal judicial principles, and such evidence is admissible.

On behalf of the Attorney General of Canada, Mr. Ian Binnie, Q.C. stated:[12]

> . . . it is the view of the Attorney General that the terms of reference are broad enough to support the collection of evidence outside the country, if the Commissioner concludes that it is expedient to do so.

On behalf of the League for Human Rights of B'nai Brith Canada, Mr. David Matas took the same position: ". . .the power is there. . ."[13]

Mr. Y.R. Botiuk, Q.C., counsel for the Brotherhood of Veterans of the First Division of the Ukrainian National Army in Canada, in turn took the following position:[14]

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[10] *Ibid.*, p. 2757.
[11] *Ibid.*, p. 2758.
[12] *Ibid.*, p. 2156.
[13] *Ibid.*, p. 2160.
[14] *Ibid.*, p. 2133.

> Mr. Commissioner, on the question of whether it is legal for this Commission to go abroad to take evidence, I would submit that having heard the argument of Mr. Binnie on this point, I totally agree with him that this Commission has the power to go abroad and take such evidence as it may consider necessary to enable it to carry out its mandate.

On behalf of the Canadian Jewish Congress, Professor Irwin Cotler expressed the same opinion and, after a detailed consideration of the law, concluded:[15]

> In this instance, under this particular Order in Council setting up this Commission, a very literal reading of the mandate of the Order in Council discloses expressly that authority.

The Commission is of the opinion that, in law, those views are unimpeachable, on the following grounds:

a) The Commission has been set up by the Governor-in-Council[16] under s. 2 and s. 3 of the *Inquiries Act*,[17] which provide as follows:

> 2. The Governor in Council may, whenever he deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.
>
> 3. Where an inquiry as described in section 2 is not regulated by any special law, the Governor in Council may, by a commission in the case, appoint persons as commissioners by whom the inquiry shall be conducted.

Nothing in the Act purports to limit the investigative powers of the Commissioners.

b) From a strictly constitutional point of view, there existed no impediment to the Governor-in-Council creating this Commission. The subject matter of this inquiry falls squarely within the exclusive field of competence of the federal authority: it is not a matter "of a merely local or private Nature in the Province";[18] it rather concerns "the Peace, Order and good Government of Canada"[19] and, more especially, "Naturalization and Aliens"[20] and "Criminal law"[21] as well as the exercise of the federal jurisdiction in matters of "Immigration".[22]

c) The Order-in-Council authorizes the Commissioner "... to conduct such investigations ... as in the opinion of the Commissioner are necessary in order to enable him to report ...".

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[15] *Ibid.*, p. 2274.

[16] Order-in-Council 1985-348, 7 February 1985.

[17] 1970 R.S.C., c. I-13.

[18] *The Constitution Act*, 1867, 30 and 31 Vict., c. 3, s. 92(16).

[19] *Ibid.*, s. 91.

[20] *Ibid.*, s. 91(25).

[21] *Ibid.*, s. 91(27).

[22] *Ibid.*, s. 95.

d) The Order-in-Council further authorizes the Commissioner "... to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the inquiry and *to sit* at such times and *at such places within or outside of Canada* as he may decide from time to time." (emphasis added)

e) Nothing in the *Canada Evidence Act*[23] bars a Commission of Inquiry from so acting.

f) There are several recent precedents where commissions of inquiry have either travelled or sent deputies to receive evidence outside of Canada: Manpower and Immigration in Montreal, Bilingualism in Air Traffic Control, Air Canada Incident at Gimli, the Ocean Ranger Disaster, to name but a few.

Thus, the power of this Commission to hear foreign evidence appeared to be firmly imbedded in the fabric of Canadian law and practice. But some parties have now raised the *Canadian Charter of Rights and Freedoms*[24] as an obstacle to the further exercise of such a power by a commission of inquiry, at least with respect to evidence supplied in a country under Soviet dominance.

Mr. David Kilgour, M.P., has based his submission[25] on s. 15 of the *Charter*. Mr. John Sopinka, Q.C., counsel for the Ukrainian Canadian Committee, has stressed s. 7 and s. 24 of the *Charter*.[26] The Commission will examine those submissions in the same order.

a) Section 15 of the *Charter*

In its paragraph (1) — which alone is relevant to this discussion — s. 15 of the *Charter* provides that

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The matter of discrimination "based on race, etc." does not arise here and one might, therefore, question the applicability of s. 15 to the present circumstances. But the Commission will follow Mr. Kilgour on his own ground; he puts the matter as follows:

> (2) Article 15 of our Charter of Rights and Freedoms guarantees to Canadians both equality before and under the law and the equal protection and benefit of our law. If you travel to a jurisdiction where judicial independence, the presumption of innocence and the rule of law are not current features of the legal system, are you not thereby denying the application of article 15 to any Canadian against whom assertions are made there by spokesmen for the Soviet government? Does a

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[23] 1970 R.S.C., c. E-10.

[24] *Canada Act 1982*, 1982 (U.K.) c. 11, Schedule B, Part I.

[25] Exhibit P-93, 18 September 1985.

[26] Evidence, p. 2454.

> commission of inquiry such as yours have the right to adopt rules and procedures which are in effect contrary to our Charter? I submit that it does not unless you wish to take to yourself the right to opt out of our Charter as the highest law of the land for the purposes of your inquiry.

Let it be made clear: this Commission does not pretend to have the right nor does it have the intention "to opt out of our Charter as the highest law of the land".

Let also an unfortunate and serious misunderstanding be corrected: there has never been any question of this Commission lending an ear to "assertions... made... by spokesmen for the Soviet government". What is at issue is simply the hearing of people who are alleged to have been witnesses to crimes perpetrated by suspects now living in Canada.

That much being said, a strong argument could be made under s. 15 if one were considering a trial against a Canadian in the Soviet Union under Soviet rules of evidence: this might indeed be "to adopt rules and procedures which are in effect contrary to our Charter". But such is not the case; such is not the purpose of the procedure which is now being contemplated. One must keep in mind that:

i) this is an inquiry, not a trial;

ii) this is a Canadian, not a Soviet, inquiry;

iii) this is an inquiry conducted under Canadian, not Soviet, law;

iv) whatever evidence may be collected shall be tested, accepted or rejected on the strength of the Canadian rules of evidence;

v) should a trial eventually take place on Canadian soil, it shall be governed exclusively by Canadian law.

By no stretch of the imagination can it therefore be contended that, by hearing evidence on Soviet territory, the Commission would infringe a Canadian's equality rights under s. 15 of the *Charter*.

b) Sections 7 and 24 of the *Charter*

These two sections read as follows:

> 7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
>
> 24.(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.
>
> (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

Mr. Sopinka has given a long list of the defects which render Soviet evidence alien to our concept of justice, e.g., no presumption of innocence, restriction on cross-examination, curtailment of defence evidence, bias of translators, etc. Assuming those defects to exist, he argues that Soviet rules are in breach of our concept of "fundamental justice" and that evidence so obtained would of necessity be excluded since its admission "would bring the administration of justice into disrepute". Hence, to use Mr. Sopinka's own words, "taking that evidence would be pointless".[27]

The whole argument is of course predicated on the existence of the defects which have been alleged. That is the Achilles' heel of the argument: the defects cannot be shown to affect the evidence before the evidence has actually been taken. Assuming respect for the Canadian rules, such defects would *never* arise; assuming their disregard, they *may* arise. Either way the argument is *now* premature.

Indeed, with our neighbours to the South the point has been raised at least a dozen times in attempts at blocking the gathering of evidence against suspected war criminals: never have the courts agreed. The accuracy of the following statement in the OSI's brief of May 1983 in **U.S.A. v. Artishenko** [28] has not been challenged:

> Since 1980, about a dozen district courts have ruled on motions for protective orders similar to the one at bar. In each case, the Office of Special Investigations noticed Soviet depositions in denaturalization cases against alleged Nazi war criminals and defense moved to prevent the depositions. Without exception, the motions have been denied and the depositions ordered to go forward.*
>
> * Of course, the admissibility *vel non* of the depositions is not now before the court. That question can be decided once the depositions have been taken and they are offered into evidence at trial.

In Canada, two cases involving war crimes should be briefly quoted on the same question.

In **Federal Republic of Germany v. Rauca** [29] a material piece of evidence in support of the extradition request consisted of a report by one Karl Jaeger, who had been the superior officer of respondent Rauca in Lithuania. The report was under Soviet control. It was admitted into evidence by the Ontario court.

Five months ago in a libel suit in Toronto arising out of an allegation of war crimes against the plaintiff,[30] the Supreme Court of Ontario appointed commissioners to take the evidence of several witnesses in Israel, in Austria and — of special interest here — in Hungary. The Commission has been informed that those examinations have actually taken place.

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[27] *Ibid.*, p. 2474.

[28] Submitted by Mr. David Matas, 2 October 1985.

[29] (1982) 38 *O.R.* (2d) 705, conf. by (1983) 41 *O.R.* (2d) 225.

[30] **Finta v. The C.T.V. Television Network Limited et al.**, 24 May 1985.

The Commission has been unable to find examples in Canada where an objection would have been considered to a request for examination of witnesses in an Eastern Bloc country, on the basis of a violation of the fundamental principles of justice. But two such examples in the U.S.A., dismissing the objection, are quoted in the OSI's above-mentioned brief (pp. 5 and 6), as follows:

> For example, in **Danisch v. Guardian Life Insurance Co.**, 19 F.R.D. 235 (S.D.N.Y. 1956), attorneys for plaintiffs, Polish citizens who were claimants against an insurance company, sought to take plaintiffs' depositions by letters rogatory in Poland. The defendant insurance company objected on the grounds "such testimony would be without value since plaintiffs were residents of a police state which would not permit plaintiffs to testify freely and truthfully." *Id.* at 237. The district court rejected this argument and granted the motion for the taking of depositions by letters rogatory: "It may well be true that the testimony thereby obtained will be of little or no value because it was taken in a police state. This is something for the trier of the facts to consider; it does not make the testimony inadmissible."
>
> (...)
>
> In **Bator v. Hungarian Commercial Bank of Pest**, 275 A.D. 826, 90 N.Y.S. 2d 35 (1st Dept't 1949), plaintiff sued a bank controlled by the government of Hungary, and the bank moved to take the testimony of two of its officers in Hungary by written interrogatories. The trial court refused to order the taking of testimony by written interrogatories in Hungary on grounds that the judicial process in Hungary was suspect. The Appellate Division reversed, stating:
>
> "[W]e see no reason why the interests of justice in this case cannot be properly served by an examination of the defendant's officers on written interrogatories in Hungary. The fact that the interrogatories are taken in Hungary will be a matter for consideration by the triers of the facts."

For all those reasons, the Commission holds that the objections raised against its jurisdiction, by virtue of ss. 7, 15 and 24 of the *Canadian Charter of Rights and Freedoms*, are ill-founded.

The Commission accordingly concludes that it is empowered by Canadian law to hear and collect evidence in any foreign country.

2) On advisability

This is the question to which the parties have devoted the bulk of their energies. But even those who were less than enthusiastic agreed that a distinction ought to be made between evidence available in Western countries and that available in Eastern bloc countries: no objection was raised against the former; only the latter was objected to. By way of example, Mr. Botiuk stated:[31]

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[31] Evidence, p. 2233.

> My clients, consequently, Mr. Commissioner, have no objection to this Commission going to to such countries as the Netherlands, the U.S.A. or the United Kingdom. It is my respectful submission, however, that no useful purpose can be served and, indeed, only harm can result from this Commission collecting evidence in the East Bloc countries.

The problem therefore boils down to the following: should the Commission consider hearing evidence which might be available in countries under Soviet dominance?

Quite contradictory views have been pressed forward. Each side has marshalled a considerable array of arguments: factual, historical, legal, even sentimental. There is no point in enlarging upon a detailed analysis: the positions are irreconcilable, the parties are set to argue for eternity. But an overview is necessary in order to convince the interested parties that the Commission has taken their views into careful consideration.

The arguments against Eastern bloc evidence have been developed mainly by the following:

The Baltic Federation in Canada (P-21)

Information and Anti-defamation Commission of the
Ukrainian Canadian Committee (Montreal Branch) (P-39)

Committee of Ukrainian Political Prisoners (P-58)

The Ukrainian Canadians Students' Union (P-90)

The Ottawa Estonian Society (P-91)

Yuri Shymko, M.P.P., Ontario (P-92)

David Kilgour, M.P. (P-93)

Lass Leivat (25 April 1985)

Roman Serbyn (6 May)

Bohdana Dutka (P-57; 22 May)

Michael Marunchak (22 May)

Ron Vastokas (10 June)

Vida Zalnieriunas (10 June)

Linards Lukss (10 June)

Y.R. Botiuk, Q.C. on behalf of the Brotherhood of Veterans of the First Division of the Ukrainian National Army in Canada (23 September)

John Sopinka, Q.C. on behalf of the Ukrainian Canadian Committee (3 October)

Those submissions have raised various objections which can be fairly summarized as follows:

a) Soviet-supplied evidence cannot be trusted, because of fabrication, intimidation, denial of right to independent counsel, lack of full cross-examination and general disregard for the principles of fundamental justice;

b) Access to Soviet archives is severely limited, when it is not totally prevented;

c) The same observation applies to access to sites of crimes and to potentially exculpatory witnesses;

d) The use of Soviet-supplied evidence would constitute a mockery of justice and would represent the worst form of McCarthyist witch hunts;

e) The U.S.S.R. places no value on the rights of the individual; it is intent on attacking any ethnic group which opposes the Soviet State;

f) By travelling to the U.S.S.R., the Commission would legitimize the political claims of the U.S.S.R. on the Baltic States and the Ukraine;

g) By the same token, the Commission would give legitimacy to the Soviet legal system, which is but a pawn in the hands of the Soviet government;

h) It would be ludicrous to foresee trials in Canada which would depend on a wholesale obtaining of Soviet evidence.

As could be expected, quite contrary views have been expressed in other quarters; their main proponents were:

The League for Human Rights of B'nai Brith Canada (P-59, P-61, P-69)

The Anti-Defamation League of B'nai Brith New York (P-66)

Sol Littman - Simon Wiesenthal Center (P-18; 24 April)

David Matas (P-64; 22 May and 23 September; text of 3 October 1985)

Kenneth Narvey - North American Jewish Students' Network - Canada (10 June)

Irwin Cotler - Canadian Jewish Congress (23 September).

The arguments put forward in those submissions can in turn be summarized as follows:

a) The Commission must go where the evidence is;

b) Documents are in Soviet archives, or German archives seized by the Soviets;

c) Eyewitnesses are for the most part in the countries where crimes were allegedly committed;

d) Victims of the Holocaust should not be deliberately excluded as witnesses and thus doubly victimized;

e) Soviet motives should not invalidate Eastern European evidence;

f) Soviet-supplied evidence was used and accepted by the courts at Nürnberg and in the **Rauca** case in Canada;

g) There is no known instance in Europe or in North America of a Soviet-supplied document having been falsified or of an Eastern bloc witness having perjured himself;

h) Use of evidence from Eastern Europe will not legitimize the Soviet political or legal systems;

i) Opposition to the use of Soviet-supplied evidence is a declaration of non-confidence in the Canadian judicial system and its ability to sort out good evidence from bad.

Thus the lines are drawn. In the middle stands the Attorney General of Canada, on whose behalf Mr. Ian Binnie, Q.C. stated:[32]

> . . . my instructions are that the issue as to the advisability is to be left firmly in the hands of the Tribunal. . . .

The expediency for the Commission of hearing foreign evidence is of course a pure question of fact which is left to the Commission's judgment; but the possibility was obviously foreseen when the Order-in-Council saw fit expressly to authorize the Commissioner ". . . to conduct such investigations . . . as in the opinion of the Commissioner are necessary in order to enable him to report . . ." and ". . . to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the inquiry and to sit at such times and at such places within or outside of Canada as he may decide from time to time."

Now it should be a trite statement that, in the discharge of its duties, the Commission ought to inquire fully and, in so doing, to look for, bring forward, or go to and listen to, all available relevant evidence. This includes evidence which may exist in Eastern Europe. Once it is heard, this evidence will of course be scrutinized and weighed by the Commission, taking into consideration all the factors which usually enter into play in that kind of an exercise: our legal system is used to it.

There remain, therefore, only to be considered reasons of policy why Soviet-supplied evidence should be excluded altogether, irrespective of its objective merits. We are thus led to consider the alleged legitimization of the legal and political systems of the Soviet Union, through the active presence of the Commission on Soviet soil. The Commission does not think that this twofold objection is final and insuperable.

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[32] *Ibid.*, p. 2158.

As to the Soviet legal system: no more than in any other case would hearing evidence in the U.S.S.R. mean putting a stamp of approval on its legal institutions. Courts do it all the time and if they had to examine on each occasion the credentials of the foreign system whose assistance they are seeking, the course of justice would oftentimes be impeded. For instance:

a) A few years ago, the Superior Court of Quebec ordered the taking of the evidence of a witness in Libya. This did not mean that Canada recognized the value of the legal system of Khadafi Libya;

b) Last year a French expert was called as a witness in the trial of the Argentinian Generals. This did not infer a recognition by France of the value of the Argentinian legal system;

c) In the previously quoted cases of **Bator** and **Danisch** and **Finta,** the American and Canadian courts ordered evidence to be taken in Hungary. This did not mean, either, a recognition of the value of an Eastern European legal system.

The same conclusions should avail concerning the Soviet legal system. The U.S.S.R. has never boasted of an enhancement of its legal system because the OSI has gone and examined over 100 witnesses abroad. There is no danger that a different situation would arise as a result of the work of this Commission.

As to the Soviet political system: the fear has been expressed that, should this Commission hear witnesses (e.g., in one of the Baltic States), the Canadian policy of non-recognition of the Soviet sovereignty over those States might be put in jeopardy. This fear, in the opinion of the Commission, is without foundation, especially in light of two impressive precedents.

The first precedent is the 1962 judgment of the House of Lords in **Schtraks v. Government of Israel.**[33] This involved a request by Israel for the extradition of appellant as a result of an offence committed in Jerusalem, but in that part of Jerusalem over which, at the time, Israel exercised *de facto* authority without enjoying recognition by the United Kingdom of *de jure* authority; in other words, Israel's sovereignty over that parcel of territory was not acknowledged by the United Kingdom. The five members of the House of Lords unanimously dismissed the plea that extradition would not lie under those circumstances and expressed no qualms that their judgment might entail "legitimization" of the Israeli occupation of Jerusalem.

The other precedent is the 1983 judgment of the Court of Appeal of Ontario in **Rauca** (see note 29). Extradition was sought by the Federal

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[33] 1964 A.C. 556.

Republic of Germany on the basis of crimes committed in Lithuania, which was then occupied by, and under *de facto* authority of, Nazi Germany. The Court of Appeal concluded that its co-operation with the government of West Germany would not entail the "legitimization" of the 1941 political situation in Eastern Europe (p. 249):

> In recognizing that the requesting party had jurisdiction under the treaty to seek extradition of this fugitive from Canada, Canada does not recognize the Government of Germany of those days or that it was sovereign where those offences are said to have taken place.

The reasons of policy against the advisability for this Commission to hear evidence from Eastern Europe do not resist a critical examination.

The Commission might put an end here to its consideration of the issue, but it appears useful to look at the position which has been taken by the courts in other jurisdictions where the same problem had to be solved, namely the Federal Republic of Germany and the United States of America.

Two West German decisions have been drawn to the attention of the Commission by Mr. Matas, who has supplied the Commission with translations into English.

The case against **Arajs** [34] was decided in Hamburg in October 1980. Arajs was sentenced to life imprisonment after having been convicted of "the joint murder of at least 13,000 persons" in Riga, Latvia. At the request of the German court, several witnesses were examined in the U.S.S.R.. The court made a detailed assessment of their evidence which it found "reliable and admissible for the conviction of the defendant" (p. 52). The German court also stated (p. 44):

> The court has based significant findings on the read testimony of the witnesses, who were deposed by Soviet District Attorneys in June 1978 and in January 1979 pursuant to the petition of the court.

The other German case, against **Christmann,** [35] was decided in Munich in December 1980. Christmann was sentenced to ten years in jail after his conviction for the murder of 60 Soviet citizens. Some 15 witnesses had been heard in the U.S.S.R.. Here again the court made a long and detailed assessment of this evidence and concluded (p. 61):

> The Court could not accept the assertion by the defendant that all Russian witnesses, including those already deceased, were not credible because, in the course of their testimony, they had been influenced, guided and coerced by the Soviet Secret service, the "KGB" to unjustly incriminate him.
>
> (. . .)
>
> The Assize Court's conviction that all Russian witnesses testified without influence, control, or compulsion by the "KGB" rests on the following circumstances:
>
> [*a twelve-page analysis follows*].

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[34] State Court of Hamburg, re **Victor Bernhard Arajs,** 27 October 1980.

[35] State Court of Munich, re **Dr. Kurt Christmann,** 19 December 1980.

In the U.S.A., it is common knowledge that the OSI has several times resorted to evidence from Eastern Europe. The fate of this evidence before the American courts has been diverse. Without claiming to be exhaustive — much of this jurisprudence is not reported — the Commission suggests that the following broad, but fair, picture emerges from an admittedly rough summarizing of the various decisions (the importance of intermediate reversals and dissenting opinions has been, of necessity, minimized; the Commission apologizes to their authors). Those decisions were rendered between 25 July 1978 and 23 September 1985.

The Commission will divide its analysis of those decisions into three categories:

Cases where the question of Soviet evidence played no part in the final result;

Cases where Soviet evidence was assessed negatively;

Cases where Soviet evidence was assessed positively.

Cases where the question of Soviet evidence played no part in the final result:

Fedorenko[36]

Trifa[37]

Dercacz[38]

Schellong[39]

Kulle[40]

Artukovic[41]

Cases where Soviet evidence was assessed negatively:

Detlavs[42]

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[36] 25 July 1978; 21 January 1981; 25 February 1983; 17 April 1984.

[37] 3 November 1981, 7 October 1982.

[38] 8 February 1982.

[39] 547 F. Supp. 569 (1982); 717 F. 2d 329 (1983); 1984 11 July 1985.

[40] 20 November 1984.

[41] 30 January 1985.

[42] 15 October 1981.

Deportation proceedings based in part on Latvian documents.

The Board of Immigration Appeals, confirming the dismissal of the proceedings by the immigration judge, wrote (p. 28):

> The immigration judge additionally did not find the documentary evidence obtained from the Soviet Union to be persuasive in this regard.

The Board added (p. 36):

> . . . we cannot find that this document obtained from the Soviet Union establishes by clear, convincing, and unequivocal evidence the charges of deportability relating to the respondent's activities before March 1943.

Laipenieks[43]

Deportation proceedings based, in part, on the foreign depositions of nine Latvian witnesses.

The immigration judge wrote (p. 58):

> In evaluating the weight to be given to the deposition testimony, we have been mindful of the prejudicial language used by the Soviet officials, the restricted right of cross-examination which limited the opportunity to expose faults in the perception and memory of the witnesses and the intimidating atmosphere. Accordingly, we have, to a large extent, discounted this testimony. Considering the totality of surrounding circumstances, we find that the depositions do not meet the fundamental fairness test of *Martin-Mendoza*.

The Board of Immigration Appeals, its five members unanimous, reversed. On Latvian evidence, it wrote (p. 10):

> Much of the testimony which these witnesses provided with regard to identifying the respondent and his actions and conduct as a member of the LPP at RCP is the subject of controversy and great dispute by the respondent. However, in the summaries which follow, we do not find it necessary to rely on this disputed testimony. Rather, the testimony of these witnesses — all but two of whom were prisoners at RCP — generally will be used only insofar as it illustrates the type of persons who were incarcerated at RCP and what happened to them, or is otherwise not inconsistent with the respondent's testimony.

The U.S. Court of Appeals (9th Circuit) reversed by a majority of 2 to 1. The majority said (p. 13):

> In the instant appeal, we are again faced with a cooperative effort among the Office of Special Investigations and the Soviet authorities. We agree with the IJ [immigration Judge] that Soviet involvement in the procurement of the deposition testimony seriously undermined its trustworthiness. Therefore, we find that the IJ properly discounted the deposition testimony in his fact finding determinations.

But the dissenting judge commented (p. 4):

> That the depositions were taken in Soviet-occupied Latvia may be reason for caution in evaluating the testimony. In this case, however, the manner of conducting these depositions does not warrant their exclusion.

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[43] 9 June 1982; 8 September 1983; 9 January 1985.

Maikovskis[44]

Deportation proceedings based in part on the depositions at trial of Israeli witnesses and on the foreign depositions of seven Latvian witnesses.

The immigration judge dismissed the government's case. He wrote sharply critical comments on the foreign witnesses (p. 13):

> The Government's case places total reliance on the Soviet prosecution witnesses to establish the factual allegations of participation in proscribed activity. Initially, it had relied on witnesses brought from Israel to testify in support of cruel or inhuman treatment of individuals. The witnesses from Israel and Latvia were apparently procured and identified by prosecution authorities in their respective countries to provide the Justice Department with witnesses against the respondent. The testimony elicited through both sources is not radically different in any way. In each case, the witnesses are relatively old; they are describing events remote in time and place; memory is disoriented as to the sequence of events.
>
> In other respects there are sharp differences.The Israeli witnesses were alert, in most instances, responsive to questions, to the questioner, to the Court. Although, it now appears all of those Israeli witnesses were giving false testimony, it was not obvious at the time that these personal identifications were without any basis in fact. I have no reason to believe that the Israeli government procured the testimony of those witnesses, knowing the testimony to be false. However, I am now called upon to accept testimony taken under the eye and supervision of the prosecutor installed by the Soviet invaders of the Republic of Latvia.
>
> Beyond the obvious infirmities which are dramatized by the inevitable contrast between Israel and the enslaved Latvian state, the transcripts and videotapes are unconvincing as testimonial evidence on their face. The picture that emerges is of craven victims acting out a badly scripted scenario. There is a total lack of spontaneity. The picture quality is poor. The sweep of the camera's eye is confined and unvarying. Except for the names, the other participants are faceless inquisitors. The spark of life and truth is absent. Such testimony cannot support the burden the Government must bear.
>
> In reaching my conclusion on the weight to be accorded the Soviet witnesses, I have not accepted respondent's contention that the accusations against the respondent, were part of a Soviet campaign to smear and discredit activist emigree individuals living in the West as a counterploy against charges of antisemitism and other human rights violations in the U.S.S.R.

(p. 16):

> In order to fix personal culpability, the Government necessarily relies on the three Soviet prosecutor witnesses, to involve the respondent in the shooting of prisoners in the Anchupani Hills. The Trial Attorney cites twenty pages of testimony by Zhukousis, Miglienieks and Shalayev taken in May 1981 as being probative of allegation number 14.
>
> I find the cited testimony and the record as a whole unpersuasive of the proposition urged. I, therefore, find that the truth of allegation number 14 has not been established.

The Board of Immigration Appeals maintained the government's appeal, but stayed away from the particular issue of Soviet evidence:

> Before beginning our analysis of the charges made against the respondent, we find it appropriate to comment on an issue which has been the subject of considerable attention both at the hearings below and on appeal. This is the issue of the seven videotaped

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[44] 30 June 1983; 14 August 1984; 17 September 1985.

> depositions taken in Riga, Latvia in May of 1981. The Government has placed considerable reliance on six of these depositions in order to prove certain aspects of its case. The immigration judge gave virtually no weight to the videotaped depositions, finding them "unconvincing as testimonial evidence on their face." Immigration judge's decision at 13. The Government, which presented witnesses at the hearing to show that the depositions were reliable, argues at some length on appeal that the Soviet witnesses were credible, that the depositions as a whole were reliable, and that the Board should view and consider the videotapes independently. Counsel for the respondent also presented a witness on the issue of the reliability of the depositions, to show that the Soviet-controlled conditions under which they were taken rendered them inherently unreliable. He asserts that the immigration judge gave the depositions the weight they deserved.
>
> We find it unnecessary to decide the thorny question of what weight these depositions should be given, since we have been able to make determinations of deportability without relying in any way on that disputed evidence.[8] Since we have not relied on these depositions, it is also unnecessary for us to address those arguments made by the respondent which relate to the depositions, such as his assertions that he was given an inadequate time to prepare for the depositions, and was denied the right to cross-examination.
>
> ---
>
> [8] We have not viewed the videotapes.

The Court of Appeals (2nd Circuit) dismissed the appeal. The particular issue of Soviet evidence was not discussed.

Kowalchuk[45]

Denaturalization proceedings based, in part, on the foreign depositions of several Ukrainian witnesses.

Although revocation of citizenship was finally ordered, Soviet-supplied evidence was not favourably considered.

The trial judge wrote (p. 19):

> The testimony of the Soviet witnesses must be viewed with even greater skepticism. While I do not believe this testimony can be simply dismissed as fabrication instigated by a hostile government and while there was nothing in the demeanor of the witnesses (so far as this can be assessed by videotape through an interpreter), or in the conduct of the depositions, to suggest that this evidence is unworthy of belief the fact remains that these witnesses were all selected and made available by the Soviet government and were under its control; they could scarcely be expected to testify except in support of the charges originally aired by the Soviet government for its own reasons.
>
> Finally, considerations of basic fairness to the defendant militate against accepting the testimony of the government witnesses as "clear and convincing" proof of charges as serious as those leveled against this defendant. Neither the Government nor the defendant was permitted to interview other persons in Soviet-controlled territory having knowledge of the facts, or even to visit Lubomyl, where a great many persons familiar with the events still reside. The notion that only selected witnesses favorable to the government have been permitted to testify (and with the opportunity for informed and meaningful cross-examination severely restricted) is not easily squared with accepted concepts of due process of law.

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[45] 1 July 1983; 23 September 1985.

In the Court of Appeals (3rd Circuit), the judgment was affirmed by a majority of 8 to 4. The majority wrote (p. 20):

> The defendant also contends that he was denied due process. He asserts that when his counsel was in the Soviet Union for the depositions of the government witnesses, the Soviet Union denied him the opportunity to visit Lubomyl to investigate or interview potential witnesses. However, as the district court observed, Soviet Russia also imposed the same limitations upon Government counsel. The defendant does not make any claim that he was deprived of any specific evidence or testimony. He makes no showing that any testimony has been excluded that "would have been material and favorable to his defense." **United States v. Valenzuela-Bernal, 458 U.S. 858, 867 (1962).**

The four dissenting judges wrote, however, a long and scathing opinion containing a most severe indictment of Soviet-supplied evidence.

Kungys[46]

Denaturalization proceedings based in part on the foreign depositions of six Lithuanian witnesses.

The trial judge wrote (p. 44):

> For the reasons set forth below, however, I have concluded that these depositions, insofar as they purport to inculpate defendant, are unreliable and were taken under such circumstances that their use against defendant would violate fundamental considerations of fairness. No single factor compels this conclusion, but the circumstances in their totality permit no other conclusion.

(p. 45)

> The Soviet authorities are outside of the jurisdiction of the United States judicial system. Consequently it is impossible to provide the usual safeguards of the trustworthiness of the evidence having its source in the Soviet Union. This becomes a matter of grave concern for two reasons. First, the Soviet authorities have a strong motive to ensure that the government succeeds in this case. Second, the Soviet criminal and judicial system is structured to tailor evidence and produce results which will further the important political ends of the Soviet state at the expense, if need be, of justice in a particular case.

(p. 54)

> Many aspects of the deposition procedures cast doubt upon the reliability of the testimony concerning defendant and give rise to concern that this testimony may have been affected by the Soviet Union's interest in this case and by undue pressures brought to bear upon the witnesses.

Sprogis[47]

Denaturalization proceedings based in part on the foreign depositions of two Latvian witnesses.

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[46] 28 September 1983; in appeal.

[47] 31 May 1985.

The Court of Appeals (2nd Circuit) wrote (p. 10):

> For completeness, and to illustrate the difficulties in judging events over forty years in the past, we summarize the depositions of Alfred Sietnieks and Feliks Ermiks, which the government also introduced at trial. However, we give them no weight because the government does not rely on them on appeal and because Judge Altimari declined to give them any weight, finding them unworthy of belief.

(p. 12)

> In reaching that decision, Judge Altimari (. . .) discounted the videotaped depositions of Ermiks and Sietnieks. After viewing those videotapes, he concluded that the testimony was entitled to no weight because it was uncorroborated, inconsistent and equivocal. In addition, Judge Altimari expressed concern that the depositions were conducted under potentially coercive conditions and that the Soviet official present sought to limit Sprogis' cross-examination of the witnesses.
>
> On appeal, the government (. . .) does not contest the district court's decision to discount the videotaped deposition testimony of Ermiks and Sietnieks.

Cases where Soviet evidence was assessed positively:

Osidach[48]

Denaturalization proceedings based in part on the foreign depositions of several Ukrainian and Jewish witnesses.

The trial judge commented at great length on the credibility which he attached to that evidence. He referred to "substantial and credible eye-witness testimony" (p. 92) and to "the credible and overwhelming testimony of the Government's witnesses" (p. 95).

Demjanjuk[49]

Denaturalization and deportation proceedings based in part on Soviet documentary evidence and the foreign deposition of a German witness.

The first trial judge wrote (pp. 1366 and 1368):

> Throughout the trial, defendant contended that Government's Exhibits 5 and 6 were not authentic and suggested the possibility of forgery. However, at no time during the entire course of the trial was any evidence introduced to substantiate these speculations.
>
> On the basis of all the evidence reviewed above, the Court concludes that Government's Exhibits 5 and 6 are authentic and clearly show that defendant was at the German SS training camp of *Trawniki*.

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[48] 513 F. Supp. 51 (1981).

[49] 23 June 1981; 8 June 1982; cert. denied: 459 U.S. 1056 (1982); 23 May 1984; 14 February 1985; 15 April 1985.

The Court of Appeals (6th Circuit) agreed (p. 2):

> We further conclude that the District Court's findings of fact are not clearly erroneous under a "clear and convincing" standard and the evidence properly admitted.

The U.S. Supreme Court refused leave to appeal.

Subsequently the Board of Immigration Appeals reached the same conclusion (pp. 5 and 9):

> The respondent contends that the evidence used to link him to the atrocities at Treblinka was a forgery. He contends that the Soviet government provided excludable altered evidence in the form of the Trawniki identity card and that the United States government engaged in affirmative misconduct by using this evidence against him.
>
> (. . .)
>
> In any event, we are not persuaded by the respondent's allegations that the Trawniki card was manufactured false evidence. (. . .) The respondent's contentions that the government is estopped from deporting him because it engaged in affirmative misconduct by introducing into evidence the Trawniki card are without merit.

Linnas[50]

Denaturalization proceedings based in part on the foreign depositions of four Estonian witnesses.

The trial judge found (p. 433):

> Each of the video-taped depositions was admitted into evidence. The defense refused to attend the depositions held in the Soviet Union because it contended that any such proceeding conducted there would be a sham. Evidence offered at trial through defense witnesses attempted to show that the Soviets, on many occasions, have manipulated and, at times, have manufactured evidence to convict innocent Soviet citizens for the purpose of attaining political objectives of the Soviet Communist party. In essence, defendant contends that we must adopt a per se rule excluding all evidence deriving from Soviet sources. In rejecting this contention, we simply note one of the fatal flaws in defendant's broadbrush attack on Soviet-source evidence. In the context of this case, the defense witnesses were unable to cite any instance in a western court in which falsified, forged, or otherwise fraudulent evidence had been supplied by the Soviet Union to a court or other governmental authority.
>
> The defense was unable to come forward with any proof that any of the Government's evidence offered at trial, either testimonial or documentary, was incredible or unauthentic in any respect. We find that defendant's defense by innuendo is without any merit. Having foresaken its right of cross-examination at the depositions taken in the Soviet Union, the defense cannot now claim foul play.

The Court of Appeals (2nd Circuit) wrote unanimously (p. 2):

> Finally, any alleged procedural deficiencies in taking the depositions and any inconsistencies in the deponents' testimony went to the weight rather than the admissibility of the evidence. Judge Mishler adequately took these factors into account in reaching his decision.

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[50] 527 F. Supp. 426 (1981); 25 January 1982; 19 May 1983; 31 July 1984.

The Board of Immigration Appeals finally confirmed the deportation order issued by an immigration judge and wrote in part (p. 5):

> Fourthly, he contends the district court improperly relied upon false evidence contained in four taped depositions of Soviet citizens, in which the deponents identify the respondent as chief of the guards at Tartu concentration camp and place him in charge of several mass executions of Jews and non-Jews. The Second Circuit has already rejected the respondent's arguments, concluding . . . that the Soviet depositions and documentary evidence were properly admitted and considered by the district court.

Koziy[51]

Denaturalization proceedings based in part on the foreign depositions of seven witnesses in Poland and the U.S.S.R.

The trial judge found (p. 31):

> Evidence concerning seven witnesses' photographic identifications of Mr. Koziy support the finding that the defendant was a Ukrainian policeman. This evidence was presented by video-taped depositions that were taken in Poland and the U.S.S.R. The defendant elected to waive his right to be present at the overseas depositions and was unable to cross-examine these witnesses. Thus the defendant was limited in his ability to challenge the identification evidence.

The subsequent judgments added no useful comments on this question.

Palciauskas[52]

Denaturalization proceedings based in part on the foreign depositions of an undisclosed number of Lithuanian witnesses.

The trial judge wrote (p. 5):

> The defendant also contests the admissibility of the Lithuanian depositions. However, the defendant's attorney was offered the opportunity to attend the depositions at government expense and he refused. As the videotaped depositions were properly conducted in Lithuania pursuant to Rule 26 and 28(b) Fed.R..Civ.P., the Lithuanian depositions are properly admitted.

The judge added (p. 17):

> All video tapes and transcripts of depositions received in evidence subject to objections stated at the trial were admissible for the purpose and to the extent offered and are so received in evidence.

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[51] 540 F. Supp. 25 (1982); 27 February 1984; 9 April 1985.

[52] 559 F. Supp. 1294 (1983); 5 September 1984.

Kairys[53]

Denaturalization proceedings based in part on Lithuanian documents.

The trial judge found (p. 1258):

> The so-called Lithuanian documents, Government's Exhibits 40, 41, 42, 43, 44, 45 and 50, are all admissible as ancient documents, as self-authenticating and, for the most part, as public records. Indeed, no one has seriously questioned their authenticity and defendant testified that the newspaper announcement of the grant of citizenship, containing virtually all the information previously described, was an announcement in a Lithuanian publication.

This overview of the American jurisprudence in the last few years puts in sharp relief the importance of the distinction which the Commission recalled in the preceding chapter between admissibility and weight of evidence. Not once have the American courts questioned, subject to its relevancy, the admissibility of foreign evidence, more especially Soviet-supplied evidence. The weight that it would be given at trial depended however on a score of factors which varied from case to case: this comes as no surprise.

The German and American experience is applicable to Canada. Here also Soviet-supplied evidence is admissible on the basis of our standard well-known criteria; but here also its weight will depend on the judicial appreciation of the factual situation in each case.

It is worth recalling that this Commission is not trying anybody. It is inquiring into allegations of war crimes and, for that purpose, it must hear and collect evidence, wherever it may be. That process cannot and should not be prevented.

* * *

So there is no reason in fact why evidence should not be sought and heard, even in Eastern Bloc countries. There is no reason of policy why this evidence should be automatically excluded. There is no support in jurisprudence why this effort should be stopped *à priori*. Thus the law, the facts and the jurisprudence point to the advisability of the Commission pursuing its efforts, even on foreign soil.

* * *

Given the positive conclusions which the Commission has reached on the questions of legality and advisability, it must be stressed that the Commission is mindful of the following circumstances:

a) The parties are all agreed that some basic precautions must be taken, for instance:
    - i) protection of reputations through confidentiality;
    - ii) independent interpreters;

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[53] 600 F. Supp. 1254 (1984).

iii) access to original documents;

iv) access to witnesses' previous statements;

v) freedom of examination of witnesses in agreement with Canadian rules of evidence;

vi) videotaping of such examinations.

The Commission concurs in those conditions and will insist that they be accepted and observed. Failure to agree ought then to be considered as a refusal to co-operate with Canadian justice.

b) It must be recalled — though it was so stated earlier — that this is an inquiry, not a trial. There are allegations, some more serious than others, but no charge against anybody. To use the very words of the *Inquiries Act*, the Commission has not yet resolved to allege any "charge of misconduct" against anybody; s. 13 of the Act is not invoked at this time. The Commission is merely pursuing its investigative work through examining documents and witnesses. The action remains the same: it only moves from one theatre to another.

c) The submissions which the Commission has heard have however convinced it that the Commissioner himself should not take part in the hearing of evidence abroad. In spite of the spirit of co-operation which the community of nations would no doubt instill into the minds of the foreign authorities who would agree to help Canada in this venture, there could arise difficulties or differences of opinion during the examination of witnesses due to incompatibilities of legal systems or unavoidably contrary approaches to a given situation. The Commissioner, a member of the Canadian Judiciary, is answerable to the law alone; acting under the *Inquiries Act*, he should not run the risk of a confrontation with a foreign official on foreign soil, nor should he subvert a Canadian inquiry under Canadian law to the alleged authority of the law of the foreign land where the Commission would be sitting.

The *Inquiries Act*, by its ss. 11(2), (3), and (4), authorizes the Commissioner to "depute. . . qualified persons" in order "to take evidence" and "report to the Commissioner". This provides for a flexible tool of which the Commission would propose to avail itself. There is no doubt that Commission counsel could perform this task quite satisfactorily.

d) All of this process is of course subordinated to the severe constraints of time within which this Commission must always work.

Outside of numerous and difficult questions of law, the Commission must deal with literally several hundred files of alleged war criminals, in connection with which evidence is spread and must be sought over three continents and in several languages. The enterprise is colossal; its success depends on the resources and the time that are allocated to it. The

Commission is well aware that the time clock is running out for the suspects, but it is not responsible for the 40 years that have elapsed since the end of World War II.

The quality of the work of the Commission and the soundness of its conclusions should not be threatened by unrealistic time constraints. But the possibility for the Commission to gather available evidence abroad should, of course, be viewed in light of that particular predicament.

CONCLUSIONS

The Commission is of the opinion that it is both legal and advisable for it to hear and collect evidence available in foreign countries, whichever these may be.

This conclusion is subject to the following provisoes:

a) That the basic conditions enumerated in this decision be observed;

b) That, barring unforeseen circumstances, the evidence be elicited by deputy-commissioners;

c) That time constraints not defeat the Commission's plans.

Hon. Jules Deschênes
Commissioner

Ottawa, 14 November 1985.

APPENDIX I-N

DECISION CONCERNING CASE NUMBER 276
25 MARCH 1986

THE COMMISSIONER: Weil, gentlemen, the Commission has heard earlier this morning the motion which has been made by Maître ——— on behalf of his client, Mr. ——— who is in attendance this morning. The motion is essentially directed at obtaining from the Commission that Mr. ——— be not called upon to testify in connection with the acts which are or have been alleged against him.

Now, we are all aware, of course, of the main object of the work of this Commission, and I don't think that I need recite again the Order-in-Council. Within the framework of this Inquiry on War Crimes during the last war, Mr. ——— has been summoned before the Commission, after having been advised by letter over the signature of Mr. Yves Fortier, Q.C., Commission counsel, of 26 February 1986 that, I quote:

> The Commission has received allegations that you (meaning Mr. ———) committed war crimes to wit: torture of Hungarian Jews detained in forced labour camps at Kursk and Koroszten in the U.S.S.R. during the period from June, 1942 to December, 1943.

In support of his motion which has been made just as Commission counsel was on the point of calling Mr. ——— as a witness before the Commission, Mr. ——— has alleged essentially the age-old principle against self-incrimination, as well as the basic principles of fundamental justice, which are at the very foundation of the administration of justice in our country. And Mr. ——— has mentioned more especially articles 7 and 24 of the Canadian Charter of Rights and Freedoms.

Let me say immediately that I do not very well see how article 24 could be called in aid by Mr. ———, and I don't intend therefore to deal with article 24 any further.

Now, this inquiry is proceeding under the Canadian Inquiries Act, and I would recall more particularly sections 2 and 4 of the Inquiries Act. Section 2 says that:

> The Governor in Council may, whenever he deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.

There is no doubt that the subject matter of this inquiry falls squarely within the terms of this section 2, and therefore the inquiry cannot be attacked under that particular aspect.

Now then, section 4 says that:

> The Commissioners have the power of summoning before them any witnesses and of requiring them to give evidence on oath, or on the solemn affirmation if they are persons entitled to affirm certain matters, and orally or in writing, and to produce such documents and things as the Commission has deemed requisite to the full investigation of the matters into which they are appointed to examine.

This is essentially the provision under which the witnesses whom we have heard yesterday had been summoned, and Mr. ——— has also been summoned as a witness.

Now, the provision is surely wide enough to allow the Commission to call Mr. ——— as a witness and to ask him all and any questions that are relevant to the inquiry which has been entrusted with the Commission. The witness raises, however, the point that in light of the evidence which was adduced yesterday, and of the notice that was given him, it is possible, it is even likely, that questions might be put to him by Commission counsel, the answers to which might tend to incriminate him.

The Canada Evidence Act has foreseen that kind of a situation. And section 5 of the Evidence Act deals with this very matter.

Paragraph 1 of section 5 provides that:

> No witness shall be excused from answering any question upon the grounds that the answer to such question may tend to criminate him. . .

et cetera.

That appears to be a direct answer to the motion that has been made before this Commission. But paragraph 2 of section 5 of the Evidence Act goes further and, without it being necessary for me to quote the paragraph in full, let me just recall that towards the end it provides that should a witness answer that kind of question, I quote:

> The answer so given shall not be used or receivable in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place, other that a prosecution for perjury in the giving of such evidence.

We, of course, are all working here on the basis that should Mr. ——— give evidence, he will give evidence according to the truth. Therefore, that being so, section 5 of the Evidence Act appears to offer to the witness — and more particularly to Mr. ——— — a full protection against the fear that he has been alleging of future criminal prosecutions against him on the basis of the evidence he would be called upon to give before the Commission.

I think that the basic confusion in the motion comes from the fact that the petitioner has forgotten the distinction between an accused and a witness. The distinction is clear, and the position in law is clear too. We all know that an accused cannot be compelled to give evidence, but a witness can be compelled. However, he can rely on the protection provided to the witness by the Canada Evidence Act. And even if we were to look at the Canadian Charter of Rights and Freedoms, as we have been invited to do by Mr. ———'s counsel, we would see that the same distinction has been clearly made again by the Charter itself and therefore the Charter itself does not provide grounds in support of the motion.

What do we find in the Charter? If we look at article 11, paragraph (c), which provides for the non-compellability, one has to stop at that article and read it carefully. What does it say?

> Any person charged with an offence . . .

And I stop here. Article 11 is not speaking of witnesses. It is speaking of an accused. And I quote again:

> Any person charged with an offence has the right not to be compelled to be a witness in proceedings against that person in respect of the offence.

I would say that I prefer the French text which if at all is still clearer.

> *Tout inculpé a le droit de ne pas être contraint de témoigner contre lui-même dans toute poursuite intentée contre lui pour l'infraction qu'on lui reproche.*

Well, that is essentially what is alleged by the motion, that Mr. ——— should not be compelled to be a witness against himself. But that is raised and can be raised only under section 11 of the Charter, which refers and provides for the protection of any person charged with an offence, and we are not in presence of that kind of a case. There is no charge against anybody before this Commission. We are not — it has been said repeatedly, but it is worth being repeated, in the course of a trial — this is an inquiry and there is no person charged with any offence as of the moment of speaking.

Therefore, this provision in article 11(c) as to non-compellability cannot be raised and used before the Commission, but pursuing in line of that distinction between accused and witnesses, one finds in the Charter article 13, which this time speaks clearly of — it begins by saying, "A witness . . " and then what happens and what has the Charter provided for? Thirteen says,

> A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings except in a prosectuion for perjury or for giving of contraditory evidence.

Well, that is a clear echo of section 5 of the Canada Evidence Act, and that is the furthest point which can be reached under the Canadian Charter, and we find therefore, in this article 13, the same protection against incrimination of a witness as we had already seen in the Canada Evidence Act. And I think that that is all the protection that Mr. ——— can claim, but he cannot claim any more than what is provided for in our system of law, which I think is very logical, whether we look on one hand at the Inquiries Act and the Canada Evidence Act, or, on the other hand, at the Canadian Charter of Rights and Freedoms; we find the same principles enshrined in the two sets of texts; we find the same distinction between the accused and the witness; we find the same protection for an accused against compellability as a witness, and we find the same protection for the witness against incriminating evidence being used against him.

So, under those circumstances, I must come to the conclusion that Mr. ———'s motion is ill-founded, and is therefore hereby denied, and the Commission orders at this point Mr. ——— to take the stand, be sworn in and answer the questions of Commission and Commission counsel.

N.B.: See Judgment to the same effect in ***R. v. Wooten***, (1984) 9 C.C.C. (3d) 513 (B.C. Supreme Court, Macdonald, J., 9 December 1983).

APPENDIX I-O

DECISION CONCERNING CASE NUMBER 689
4 JULY 1986

THE COMMISSIONER: Well, gentlemen — and ladies, I should add — the Commission has considered the objection which has been raised by Mr. ———— a few moments ago this morning to the effect that his client, ———— should not be compelled to answer questions from Commission Counsel on behalf of the Commission.

The Order-in-Council which has set up this Commission has in its second WHEREAS defined the phrase "War Criminals" as follows: "Persons responsible for war crimes related to the activities of Nazi Germany during World War II."

On the basis of that definition, the Order-in-Council has empowered and instructed this Commission to investigate:

(1) Whether any such persons — meaning war criminals — are now resident in Canada;

(2) When and how they obtained entry to Canada; and

(3) What further action might be taken in Canada to bring them to justice.

In the course of discharging its mandate, the Commission has heard a number of witnesses and has felt that it should call as a witness Mr. ————. With that purpose in mind Commission Counsel, Mr. Meighen, first wrote to Mr. ———— on 9 April 1986.

I quote from the second paragraph of that letter: "In the conduct of its inquiry, the Commission has received allegations that you may have committed war crimes, to wit . . ." and there follow the particulars.

Then on 23 April 1986, Mr. Meighen further wrote to, this time, Mr. ————'s counsel Mr. ————, and more particularly sent him copies of a number of depositions which had come into the possession of the Commission, and those lengthy depositions have been filed before the Commission as exhibit C-113.

By and large — and I am not pretending to go into any particulars at this time about those depositions — by and large they mention Mr. ————, and in the words of one or the other of those numerous witnesses, tend to connect him with certain actions that might fall within the purview of the definition of war crimes.

The first objection of Mr. ———— — indeed, it is a threefold objection, if I may — so the first facet of that objection is that there is no evidence before this Commission in connection with Mr. ————, that the witnesses' statements which I just referred to have not been established before this Commission; therefore, the Commission having no evidence before it, there would be on the part of Mr. ———— no case to meet. Hence, the reasoning follows, this Commission would have no jurisdiction to inquire into the conduct of Mr. ————.

This first facet, so to call it, of the objection is, in the opinion of the Commission, without legal foundation. Section 4 of the Inquiries Act under which this Commission is operating says, "The Commissioners have the power of summoning before them any witnesses and of requiring them to give evidence on oath or solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the Commissioners deem requisite to the full investigation of the matters into which they are appointed to examine."

I wish to underline the latter part of this provision with respect to the production of such documents and things as the Commissioners deem requisite. This, of course, covers the statements of witnesses which the Commission has already received and which have been filed as exhibit C-113.

There is no rule as to the order in which relevant witnesses may or should be heard by a commission of inquiry. At the end, the Commission, of course, will have to assess the evidence, the various statements, written or oral, the depositions of witnesses, including that of Mr. ————, but the Commission is not bound to hear one witness before another or to require one part of the evidence to be made before another part of the evidence is entered into.

The assessment of the witnesses' statements, however they come into the possession of the Commission, is not a prerequisite to further evidence, for instance, that is to be obtained through the testimony of Mr. ————.

So, in short on this first facet, I am of the view that there is indeed — to use the words of Mr. ————, if I understood him well — there is indeed a case to be met; there is indeed evidence before this Commission; there is, therefore, jurisdiction in this Commission to inquire further into those facts, and to that effect to summon other witnesses, including Mr. ————.

The second facet of the objection has raised an alleged violation of natural justice in the proceedings of this Commission. May I say that this Commission has gone as far as it could in order to observe the basic dictates of natural justice, and that I see no reason why or how one could come to the conclusion that there would have been any violation of natural justice in the proceedings of this Commission up to now. For particulars have been supplied to him through his counsel; he is accompanied by counsel from whose advice he does benefit today. And I would even go further: Mr. ———— had been summoned first to be heard on the first of May 1986; for reasons that his counsel explained at the time, his counsel withdrew from the hearing. Mr. ———— then requested a postponement in order to enable him to get counsel, and the Commission did accept his request and grant him the postponement which he had been asking for. So I do not think that under any aspect of the matter, Mr. ———— can complain of a violation of natural justice and that second facet of the objection is completely devoid of any merit.

There remains the third aspect of the argument, which is based essentially on section 11, paragraph (c) of the Canadian Charter of Rights and Freedoms. If I may quote that short part of section 11, it reads as follows: "Any person charged with an offence has the right not to be compelled to be a witness in proceedings against that person in respect of the offence." So this is the essential objection that Mr. ———— would not be a compellable witness before and by the Commission.

It must, however, first be kept in mind that the section is applicable to — and I quote again — "Any person charged with an offence." These words must be placed back in the context of the full section which they are the beginning of. Now, when one reads the full section 11, one finds that very clearly it refers to the circumstances of a trial, not of an inquiry. We see, for instance, that in paragraph (b) the section does use the very words, "to be tried." In paragraph (e), it refers to bail. In paragraph (f) it refers to trial by jury. In paragraphs (g), (h) and (i), it refers to either a finding of guilty or an acquittal. It could not be more clear that the whole of section 11 has been thought of, conceived and written in light of the charge of an offence, having the effect of bringing the person charged before a court of law for the purposes of that person's trial, and it is there and then that under paragraph (c) that person has the right not to be compelled to be a witness.

This is far away indeed from a commission of inquiry, and more especially from the proceedings of this Commission.

Now, Mr. ————'s counsel has referred to the judgment of the Federal Court's Trial Division rendered in 1984 in the matter of Gaw and Yeomans, 14 Canadian Criminal Cases, 3rd Series, page 134. Here again, a careful reading of the judgment shows that it was rendered under circumstances material to the issue and which were quite foreign to the proceedings in which we are involved. For instance, one sees that the inquiry in that case had been launched at the decision of the Commissioner of Corrections under the provisions of the Penitentiary Act. Now, here is what the Federal Court of Canada had to say in connection with that proceeding, and I am quoting from page 141:

> In constituting the Commission purportedly to hear evidence, investigate and make a determination of the applicant's innocence or otherwise in regards to allegations . . .

— so and so and so and so —

> . . . the respondent exceeded his statutory power.

And then at page 143,

> Individuals have a right not to be subjected to non-authoritative, non-constitutional proceedings held in camera at the behest of state officials acting beyond their legal authority.

And I could go on and quote several other passages to the same effect, where the Federal Court speaks of a parody of justice and so forth.

Well, it is not necessary to dwell much longer on those circumstances to come to the conclusion that quite obviously they are completely foreign to the situation with which we are dealing. Nobody has questioned the power of Parliament to pass the Inquiries Act; nobody has questioned the power of the Government of Canada under that act to appoint this Commission of Inquiry to investigate the matters that are detailed in that Order-in-Council; so the circumstances under which the inquiry had to be considered in Gaw and Yeomans had absolutely nothing to do with the circumstances under which this Commission is operating, and the testimony of Mr. ———— is requested, and the objection of his counsel has to be considered.

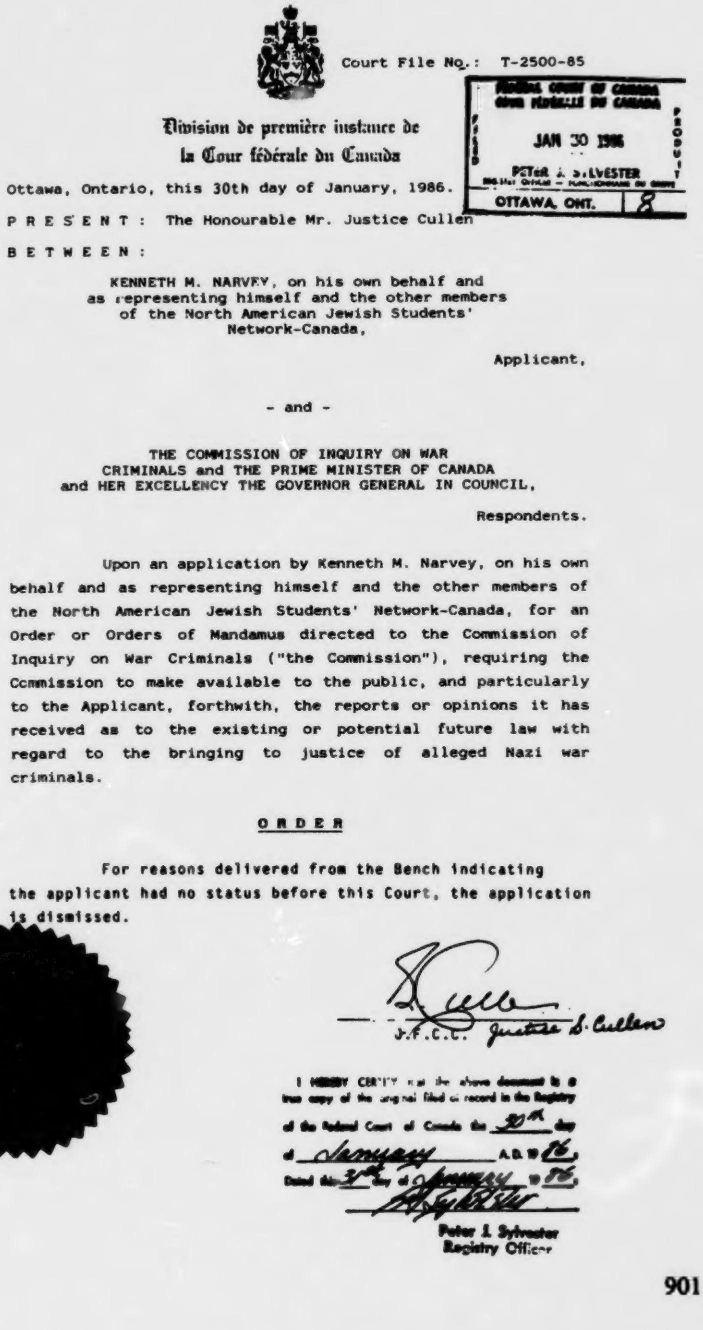
I would not wish, however, to belabour the point any more than necessary. Let me add, therefore, for the benefit of Mr. ———— and his counsel, that the question of the applicability to this inquiry of paragraph (c) of section 11 of the Charter has been raised earlier before this Commission, namely on 25 March 1986, in connection with another case which this Commission was investigating — in connection, of course, with its mandate. After argument, a detailed decision was rendered by the Commission outlining the reasons why in the Commissioner's opinion section 11 (c) could not be used in support of an objection like the one which has been raised in its so-called third facet by Mr. ———— today.

I will instruct the Commission Secretary to hand over to Mr. ———— a copy of that decision rendered on 25 March 1986; that decision should be considered as being here and now incorporated into the decision which I am rendering at this very moment. You will find, Mr. ————, that there are blanks in that text, inasmuch as we have deleted the name of the party who had been summoned and the name of his counsel so as to try and avoid the possibility of an identification which, all along in its proceedings, this Commission has done its best to avoid.

So for those reasons, the objections raised by Mr. ———— to the questioning of Mr. ———— by Commission Counsel is hereby dismissed, and Mr. ———— is ordered to answer here and now the questions which Commission Counsel had begun putting to him at the time the objection was made.

APPENDIX I-P

NARVEY AND THE COMMISSION OF INQUIRY ON WAR CRIMINALS



Court File No.: T-2500-85

FEDERAL COURT OF CANADA
COUR FÉDÉRALE DU CANADA
JAN 30 1986
PRODUIT
PETER J. SYLVESTER
REGISTRY OFFICER — FONCTIONNAIRE DU GREFFE
OTTAWA, ONT. 8

Division de première instance de
la Cour fédérale du Canada

Ottawa, Ontario, this 30th day of January, 1986.

PRESENT: The Honourable Mr. Justice Cullen

BETWEEN:

KENNETH M. NARVEY, on his own behalf and
as representing himself and the other members
of the North American Jewish Students'
Network-Canada,

Applicant,

- and -

THE COMMISSION OF INQUIRY ON WAR
CRIMINALS and THE PRIME MINISTER OF CANADA
and HER EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL,

Respondents.

Upon an application by Kenneth M. Narvey, on his own behalf and as representing himself and the other members of the North American Jewish Students' Network-Canada, for an Order or Orders of Mandamus directed to the Commission of Inquiry on War Criminals ("the Commission"), requiring the Commission to make available to the public, and particularly to the Applicant, forthwith, the reports or opinions it has received as to the existing or potential future law with regard to the bringing to justice of alleged Nazi war criminals.

ORDER

For reasons delivered from the Bench indicating the applicant had no status before this Court, the application is dismissed.

J.F.C.C. Justice S. Cullen

I HEREBY CERTIFY that the above document is a true copy of the original filed of record in the Registry of the Federal Court of Canada the 30th day of January A.D. 19 86.

Dated this 31st day of January 19 86.

Peter J. Sylvester
Registry Officer

Court No. T-2500-85

Federal Court of Canada
Trial Division

BETWEEN:

KENNETH M. NARVEY, on his behalf and
as representing himself and the other members
of the North American Jewish Students'
Network-Canada,

Applicant,

- AND -

THE COMMISSION OF INQUIRY ON WAR CRIMINALS and
THE PRIME MINISTER OF CANADA and
HER EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL,

Respondents.

REASONS FOR ORDER

(Delivered from the Bench at Ottawa, Ontario
on the 30th day of January, 1986.)

CULLEN, J.:

Significant discretionary authority has been given to Mr. Justice Jules Deschênes. There is a duty to act fairly and reasonably in fulfilling his mandate. The very first evidence of this was his decision to give certain parties "standing" and the opportunities that go with that status. It is obvious from the transcript produced that most careful consideration was given to the subject, i.e. who will get standing. The parties had an opportunity to put their case directly to the Commission - decisions were made concerning who and who would not receive standing; reasons for these decisions were also given and this seems to have been accepted by all the parties who made representation - and so far as I know no appeal from these decisions has been taken. There may be several reasons, but I suspect all accepted the decisions, as well within Mr. J. Deschênes' discretionary authority and no motion for mandamus would probably have been successful because he acted fairly and all interested parties were heard, and reasons given for the decision.

There is a difference between those with standing and other persons with an interest who make submissions. Actually one has to be impressed with the latitude allowed parties such as Mr. Narvey and/or his group - who can submit any number of briefs, who can suggest witnesses that should be heard and who can submit briefs counter to anything written or said by witnesses. If, for example, I should order that these opinions solicited by the Commission be made public, then it's obvious Mr. Narvey or his group will be in a position to make further written submissions if they disagree with the tone or content.

To allow standing here today to Mr. Narvey and his group would in my view unravel the discretionary authority already exercised by Mr. Justice Deschênes - who did so in a fair and open fashion. In my view the Commission has determined a more direct interest in the subject is held by the people given *standing*. The interest of Mr. Narvey and/or his group is not denied and in fact it is significant because the members are of the Jewish faith, who want to see justice done, as a result of the war crimes. *"Interested parties"* as mentioned in the transcript covers a very wide area. MP's, MPP's, other individuals, are interested parties and their interest may be as significant as Mr. Narvey/Network.

The general public is invited by notice to send briefs - not specifically confined to interested parties who attend all or most of the hearings.

Remedies sought here are primarily *certiorari* and *mandamus*. As a person or group without standing before the Commission they would have a difficult task establishing standing here for the purposes of these remedies.

Accordingly I have determined that Mr. Narvey or his organization cannot be heard by this Court for the reasons stated above.

OTTAWA
February 20, 1986.

B. Cullen
J.F.C.C.

APPENDIX I-Q

LEAGUE FOR HUMAN RIGHTS OF B'NAI BRITH CANADA AND THE COMMISSION OF INQUIRY ON WAR CRIMINALS

Federal Court of Canada

Court No. T-2488-85

BETWEEN

LEAGUE FOR HUMAN RIGHTS OF
B'NAI BRITH CANADA

Applicant,

-- *and* --

COMMISSION OF INQUIRY ON WAR
CRIMINALS

Respondent.

REASONS FOR ORDER

Court No. T-2488-85

FEDERAL COURT OF CANADA
COUR FÉDÉRALE DU CANADA
FEB 11 1986
ANDRÉ GRATTON
OTTAWA, ONT.

Federal Court of Canada
Trial Division

OTTAWA, ONTARIO, THIS 10TH DAY OF FEBRUARY, 1986.
PRESENT: THE HONOURABLE MR. JUSTICE CULLEN

BETWEEN:

LEAGUE FOR HUMAN RIGHTS OF
B'NAI BRITH CANADA

Applicant,

- AND -

COMMISSION OF INQUIRY ON WAR CRIMINALS

Respondent.

UPON application made on behalf of the League for Human Rights of B'Nai Brith Canada, before the presiding judge of the Federal Court of Canada held in the City of Ottawa, in the Province of Ontario, on the 21st day of November, 1985, at 10:30 o'clock in the forenoon for Certiorari quashing the determination of the respondent not to release the reports of the respondent's working group of legal experts in advance of the completion of the report of the respondent, and Mandamus ordering the respondent
(a) to release the reports of the respondent's working group of legal experts in advance of the completion of the report of the respondent;
(b) to allow the applicant an opportunity to respond to those reports.

ORDER

IT IS HEREBY ORDERED that the applications for Certiorari and Mandamus be dismissed.

There shall be no order as to costs.

B. Cullen
J.F.C.C.

I HEREBY CERTIFY that the above document is a true copy of the original filed of record in the Registry of the Federal Court of Canada the 11th day of February A.D. 19 86.
Dated this 11th day of February 19 86.

Court No. T-2488-85

Federal Court of Canada
Trial Division

BETWEEN:

LEAGUE FOR HUMAN RIGHTS OF
B'NAI BRITH CANADA

Applicant,

- AND -

COMMISSION OF INQUIRY ON WAR CRIMINALS

Respondent.

REASONS FOR ORDER

CULLEN, J.:

This is an application for *certiorari* quashing the determination of the respondent not to release the reports of the respondent's working group of legal experts in advance of the completion of the report of the respondent, and *mandamus* ordering the respondent: (a) to release the reports of the respondent's working group of legal experts in advance of the completion of the report of the respondent; and (b) to allow the applicant an opportunity to respond to those reports.

BACKGROUND

The respondent, Commission of Inquiry on War Criminals, was created by Order-in-Council which appointed the Honourable Mr. Justice Jules Deschênes to be a Commissioner under Part I of the *Inquiries Act.*

Many applications were made for "standing" before the respondent Commission and the applicant was among those given standing.

On June 25, 1985 a news release was issued stating, *inter alia:*

> The Commission's terms of reference require it "...to report to the Governor in Council (its) recommendations and advice relating to what further action might be taken in Canada to bring to justice such alleged war criminals who might be residing within Canada, including recommendations as to what legal means are now available to bring to justice any such persons in Canada or whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes."
>
> The discharge of this mandate raises complex legal problems in various areas: criminal law, international law, immigration, citizenship, naturalization, extradition, deportation and so on.
>
> To assist in its task, the Commission has set up a working group of eight professors and practitioners from across Canada; in alphabetical order they are:
>
> Professor Jacques Bellemare (Montreal)
> Mr. Donald P. Bryk (Winnipeg)
> Mr. Gowan T. Guest (Vancouver), with:
>   Mr. Jonathan B. Festinger and
>   Mr. Michael P. Redmond
> Mr. John I. Laskin (Toronto)
> Mr. E. Neil McKelvey (St. John, N.B.)
> with: Miss Barbara E. Bonham and
>   Mr. Stephen J. Hutchison
> Professor J. George Neuspiel (Ottawa)
> Mr. Michel Proulx (Montreal)
> Professor Sharon A. Williams (Toronto)
>
> Those experts are to report to the Commission by September 1, 1985.

On June 11, 1985, counsel for the applicant requested of the respondent, "...that once these particular legal counsel have produced their reports, without contact from the intervenants, the request we would make is that these reports be made available to the intervenants for the possibility of comment on them to the Commission". The Commissionner's response at that time was, "We will see. I will not commit myself in advance either way."

On September 23, 1985, counsel for the applicant repeated his request. Earlier Mr. Justice Deschênes had ruled against counsel being allowed to approach such lawyers or academics who had been entrusted with the task of furnishing opinions to the Commission and had, as he puts it, "to the extent that I would not only discourage but prohibit that kind of approach."

Counsel for the applicant put their position this way:

> I suggest that we have had the experience of the filing of the government memorandum that was introduced through testimony of Martin Low, and that was not made public until some five years after it was written. There were many responses that could have been made at the time, but no one had an opportunity to respond at the time. The fact that there was no response made at the time may have had an influence on what the government did in intervening years.
>
> You have many more materials before you than the government did at the time when it was considering this interdepartmental committee memorandum, but I think there is an analogy here that it is useful when there is material before the Commission, unless it is of the sort that incriminates individuals and should not be made public, that that material be made public so that in any case where there is a comment that is opposite and relevant and has not been covered, it could be brought to your attention before you make your report.

Mr. Martin Low had been the author of a memorandum, and chairman of a Government interdepartmental committee. The memorandum was written in 1980 but not made public until July 1985 when Mr. Low appeared before the respondent Commission. The theme of the memorandum was that technically nothing could be done to bring Nazi war criminals in Canada to justice either through existing law or new legislation. Needless to say, the applicant took strong exception to that position and one of the counsel for the applicant wrote what can be described as a scathing analysis of the memorandum. Counsel for the applicant maintains no action against war criminals was taken in Canada because of the conclusion of that report which, as indicated earlier, was not made public where individuals and groups might attack its conclusions. Counsel is suggesting that we might very well have a repeat of the process. An affidavit filed in support of the motion by Ms. Linda Johnson shows positions taken by one of the legal experts Ms. Sharon Williams, which counsel for the applicant maintains are erroneous, and if those "errors" find their way into her report or legal opinion there will be no opportunity to rebut if the reports are not made public.

Certainly making reports public, before a Commission hands in its report, has taken place, e.g. the Commission of Inquiry Concerning Certain Activities of the R.C.M.P.

On September 23, 1985, Mr. Justice Deschênes stated: "I will see, Mr. Matas, though I must say that I do not feel inclined." (to release the reports). He continued:

> It is a bad day for you today insofar as requests are concerned. However, I do not feel inclined to agree to your request.
>
> There were, as you know, over the years a number of various legal opinions that were supplied by government officials; material has been put before this Commission in that respect. Then, various counsel have been invited and allowed to file their own views and briefs, which has been done, on behalf of various parties, as you know. There is already a considerable amount of material available in that respect.
>
> I felt outside of that material, I should try and obtain so-called independent views from legal experts, which I have done. I think a line has to be drawn somewhere where the debate must be closed. I am just wondering whether it is advisable that these opinions that I am in the process of obtaining in turn be submitted to outside analysis and in turn be the object of comments either by yourself or by others who have already had the opportunity of filing very substantial briefs before the Commission. In all fairness, then, to the authors of those opinions, I suppose that I would have to return to them and tell them, "Here is the criticism that you have been submitted to" and give them an opportunity to answer that. As I say, there would be no end to it, especially when one knows the talent of counsel and academics to rebut whatever argument may be put against the opinions that they have been putting forward.
>
> Actually, it was only as kind of a discharge of what I felt was some kind of public duty of information that a release was issued last spring saying that the Commission was seeking outside independent opinions and giving the names of those

> professionals who had been hired by the Commission for that purpose. Actually, I could well have done so without having advised anybody, and I could well have sought those opinions without issuing any release of any kind.
>
> I felt that it was an information which the public was entitled to, that the names of those advisors and consultants be divulged. But, that this, in turn, should get into the topic of a new and another debate I think is another question. I may change my mind. If so, I will, of course, tell you. For the time being, I am not inclined to put these opinions on the table for purposes of further discussions.
>
> I feel that I have received enough advice in legal fields to be able to use up much of my time between now and the target date that has been given to this Commission. I think I have all the material I need, including, Mr. Matas, your own numerous briefs and speeches and so on. I do not think that I would need any additional legal literature.

The applicant, in its argument, states:

> According to the Inquiries Act, the Inquiry is a public inquiry.
>
> ...
>
> A public inquiry must be arranged in such a way as to provide members of the public with a reasonable opportunity to know the subject matter of the inquiry, what it involves from the point of view of the public. What the statute contemplates is a meaningful inquiry that would be calculated to aid the Respondent to reach a conclusion that reflects a consideration of the public interest. It does not contemplate an inquiry at which members of the public are merely given an opportunity to blow off steam.
>
> (Underlining is mine)

It is clear from the transcript that the respondent Commission has been correctly arranged.

With respect to these reports from the legal experts, I am satisfied there is no solicitor-client privilege. I accept without question the submission of the counsel for the applicant. The mere fact that the person speaking is a solicitor and the person to whom he speaks is his client affords no protection. The advice, to be protected, must be concerned with rights and liabilities enforceable in law by or against the client. The privilege is confined to communications either connected with suits begun, intended, expected or apprehended by or against the client or connected with precautions as might eventually render any proceeding by the client successful or all proceedings by or against the client superfluous.

The reports for which disclosure is sought by this motion do not deal with suits begun, intended, expected or apprehended by or against the respondent. The reports do not deal with precautions as might eventually render any legal proceedings by the respondent successful. The reports are not concerned with precautions as might render all legal proceedings by or against the respondent superfluous.

The rationale of solicitor-client privilege is to protect confidences of the client communicated to his solicitor relating to the client's legal rights and liabilities. The privilege is that of the client, not that of the solicitor. It covers communications from the solicitor to the client, as well as communications from the client to the solicitor, because communications from the solicitor to the client may reveal confidences of the client, about the legal situation of the client.

There is no claim by the respondent that the release of the reports which this motion requests would reveal confidences of the respondent about its legal rights and liabilities. Nor, given the nature of the reports, could such a claim be made.

Although making reference to the Access to Information Act and what is subject to disclosure, the applicant concedes that the respondent is not one of the government institutions listed under that Act. The applicant suggests it can be used as a guide, but I am somewhat loathe to do so. The Government, for its own reasons, did not include inquiries under the Inquiries Act, indicating to me at least that some other consideration be used as a basis to determine what should or should not be made public.

In any event I have indicated there is no solicitor-client privilege here and to so find would broaden that concept beyond its appropriately limited scope.

A strong argument was advanced that a duty of fairness is applicable here. In my reasons delivered from the Bench on January 30, 1985, in the case of Kenneth M. Harvey v. The Commission of Inquiry on War Criminals et al (unreported), I stated, "Significant discretionary authority has been given to Mr. Justice Jules Deschênes. There is however a duty to act fairly and reasonably in fulfilling his mandate." No question, then, that there is a general duty of fairness, not only to those given standing but to all who appear before the Commission. Can one reasonably or objectively argue that the general duty of fairness has not been followed by the Commission. Clearly not.

What then of the specific decision here, not to make the reports of the experts public before making the Commission's report, now due on June 30, 1986 (an extension of time from December 31, 1985). First it is clear that the reports will be made public when the Commission files its report. Next, it is clear from the press release that the experts will be asked to report on "complex legal problems in various areas: criminal law, international law, immigration, citizenship, naturalization, extradition, deportation and so on." Thus the public and the parties know the subject matter of the reports and indeed the myriad of written and oral submissions by the public are on those very subjects. Mr. Justice Deschênes so inferred at page 2856 of the transcript:

> The opinions I have already received from various sides are all documents which, though well documented and after having been written after a long and thorough study of the matter, nevertheless may well be to some extent tainted by the interests which each writer is representing. That is quite normal,...I saw fit to seek outside views that would not be working under this difficulty to represent and defend interests of any client.

Thus, seeking help for these reasons clearly indicates it is on the subject matter where he already has "well documented views".

Again, although not available to the parties until January 27, 1986, when the affidavit of Karen Dale Logan, the secretary of the respondent Commission, was filed, we have letters showing "terms of each appointment as well as the topics of opinions contained in letters sent to each of the lawyers by the respondent Commission." Thus 5 months before the Commission is to report the public and parties know specifically what is sought from each expert.

Next, one has to note that, in his attempt to meet a duty of fairness, Mr. Justice Deschênes says at page 2305 of the transcript, "I felt outside of that material (i.e. all sumbissions made) I should try and obtain so-called independent views from legal experts which I have done." and later at page 2306,

> Actually, it was only as kind of a discharge of what I felt was some kind of public duty of information that a release was issued last spring saying that the Commission was seeking outside independent opinions and giving the names of those professionals who had been hired by the Commission for that purpose. Actually, I could well have done so without having advised anybody, and I could well have sought those opinions without issuing any release of any kind.
>
> I felt that it was an information which the public was entitled to, that the names of those advisors and consultants be divulged.

One can visualize Mr. Justice Deschênes saying somewhat wistfully, "But that this in turn should get into the topic of a new and another debate I think is another question."

I can accept the following view from the applicant:

> There is no question that the recommendations of the Respondent will influence the Government about what to do about Nazi war criminals in Canada, and may be decisive. The whole purpose of the establishment of the Respondent Commission was to create an independent body, bringing to its task a considerable and varied expertise of its own, and developing quickly even greater expertise with the problem assigned to it. It is inherent in the conception and operation of such a commission that its recommendations be influential.

(The underlining is mine).

The Commission is seeking independent opinions, and clearly by doing so is making itself an independent body.

I am entirely satisfied that Mr. Justice Deschênes has more than honoured the duty of fairness.

Does the Commission have a duty to disclose and if so does it include the legal opinions from the eight experts? The duty to disclose is part and parcel of the duty of fairness. The respondent Commission has been given an onerous task and a time limit. The Government of Canada clearly envisaged the necessity for a commission, the importance of its subject matter and the need to see the decisions expedited by setting a deadline. The deadline was extended for the reasons known by all, but the extension is quite brief - 6 months. Mr. Justice Deschênes has accepted his responsibilities, has indicated the voluminous material he has to consider and the complexities of the issues. Time is a very important factor he must consider and indeed says so in his reasons for not acceding to the applicant's request. We are told the reports will be made public. To suggest, as the applicant does, that this is really their last chance to comment is hardly accurate. Whether the Commission concludes nothing can be done or that five or ten options are open to the Government, the applicant and others will have several opportunities to present their comments on the report of the experts, albeit in different fora.

If I concluded that the reports must be produced would all parties say now the duty of fairness has been met? Clearly not. In a motion heard immediately after this one, counsel for another applicant, who incidentally had no standing before the Commission, would have this Court order that legal opinions and advice given by Commission counsel should also be made public, and I expect on and on it would go.

I have had the opportunity to read the views of my colleague Mr. Justice Rouleau in Electrohome Limited v. Deputy Minister of National Revenue, which is Federal Court No. T-2726-85 dated January 31, 1986. On February 3, 1986 this decision was forwarded to me by counsel for the respondent, with a copy to counsel for the applicant, subsequent to the hearing. Counsel for the respondent made no comment other than, "This decision may be pertinent to the issues you are now considering and a copy is enclosed for your review. I read the case carefully, and concluded it was not "pertinent" to the facts of this case. Subsequently, on February 5, 1986, Counsel for the applicant drew to my attention several distinguishing features of the case. Mr. Justice Rouleau felt certain types of information must remain confidential and cited reasons for that proposition. He also wrote that the applicants failed to produce any evidence to indicate the Deputy Minister may have used or been provided with incorrect information in his investigation, and lastly, that the administrative process might come to a grinding halt if the disclosures sought were acceded to. The facts here are quite different and we do not have a commercial dispute to resolve. Also, the applicant has indicated how the government of the day may have been misled by "erroneous conclusions". Clearly the Commission would not come to a grinding halt, but the reasons are given above why I have not allowed the application. The reasons of my colleague Rouleau, J. and my own are different because of the different situation we had to deal with but we have come to similar conclusions for our individual reasons.

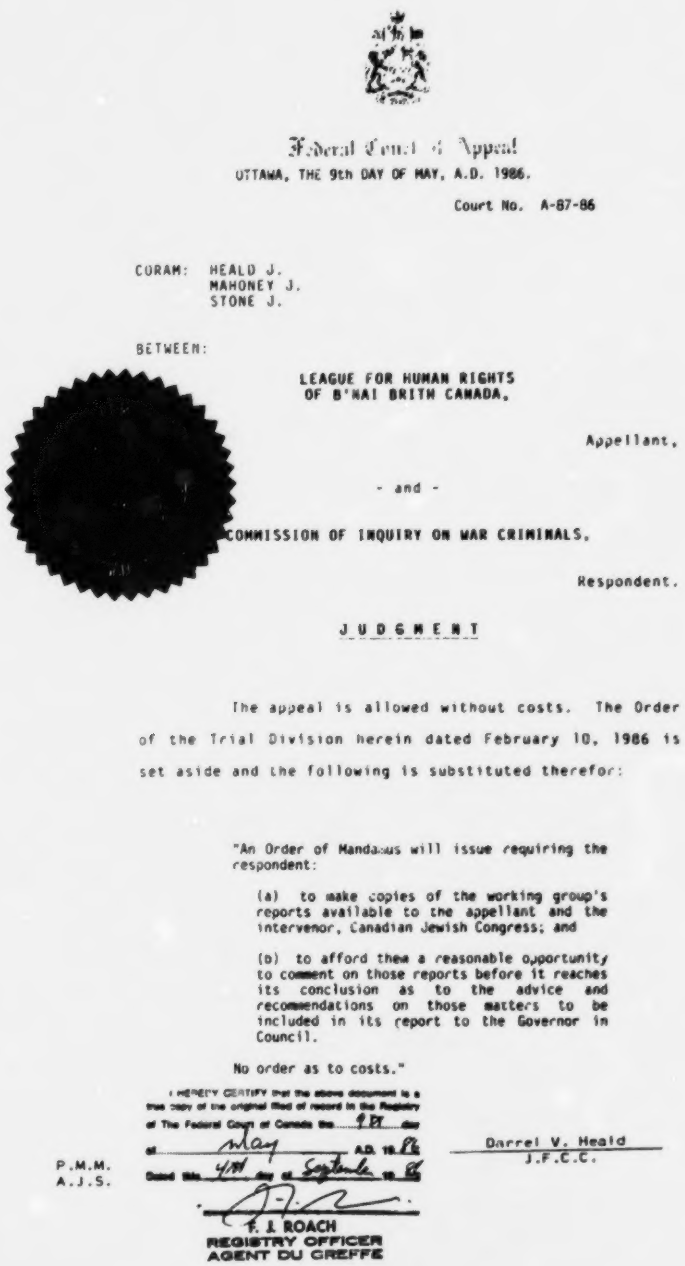
For the reasons stated above the application for certiorari and mandamus are dismissed, with no order as to costs.

OTTAWA
February 10, 1986.

B. Cullen
J.F.C.C.

APPENDIX I-R

LEAGUE FOR HUMAN RIGHTS OF B'NAI BRITH CANADA AND COMMISSION OF INQUIRY ON WAR CRIMINALS



Federal Court of Appeal

OTTAWA, THE 9th DAY OF MAY, A.D. 1986.

Court No. A-87-86

CORAM: HEALD J.
MAHONEY J.
STONE J.

BETWEEN:

LEAGUE FOR HUMAN RIGHTS
OF B'NAI BRITH CANADA,

Appellant,

- and -

COMMISSION OF INQUIRY ON WAR CRIMINALS,

Respondent.

JUDGMENT

The appeal is allowed without costs. The Order of the Trial Division herein dated February 10, 1986 is set aside and the following is substituted therefor:

> "An Order of Mandamus will issue requiring the respondent:
>
> (a) to make copies of the working group's reports available to the appellant and the intervenor, Canadian Jewish Congress; and
>
> (b) to afford them a reasonable opportunity to comment on those reports before it reaches its conclusion as to the advice and recommendations on those matters to be included in its report to the Governor in Council.
>
> No order as to costs."

I HEREBY CERTIFY that the above document is a true copy of the original filed of record in the Registry of The Federal Court of Canada the 9th day of May A.D. 19 86
Dated this 4th day of September 19 86

F. J. ROACH
REGISTRY OFFICER
AGENT DU GREFFE

P.M.M.
A.J.S.

Darrel V. Heald
J.F.C.C.

CANADA

Federal Court of Appeal

A-87-86

CORAM: HEALD, J.
MAHONEY, J.
STONE, J.

BETWEEN:

LEAGUE FOR HUMAN RIGHTS
OF B'NAI BRITH CANADA

Appellant

- and -

COMMISSION OF INQUIRY ON
WAR CRIMINALS

Respondent

Heard at Ottawa on Wednesday, the 7th day of May, 1986.

Judgment rendered at Ottawa on Friday, the 9th day of May 1986.

REASONS FOR JUDGMENT BY:	MAHONEY, J.
CONCURRED IN BY:	HEALD, J. STONE, J.

I HEREBY CERTIFY that the above document is a true copy of the original filed of record in the Registry of The Federal Court of Canada the 9th day
of May A.D. 19 86
Dated this 4th day of September 19 86

F. J. ROACH
REGISTRY OFFICER
AGENT DU GREFFE

CANADA

Federal Court of Appeal

A-87-86

CORAM: HEALD, J.
MAHONEY, J.
STONE, J.

BETWEEN:

LEAGUE FOR HUMAN RIGHTS
OF B'NAI BRITH CANADA

Appellant

- and -

COMMISSION OF INQUIRY ON
WAR CRIMINALS

Respondent

REASONS FOR JUDGMENT

MAHONEY, J.

This is an appeal from a decision of the Trial Division which refused to make orders in the nature of *certiorari* and *mandamus* requiring the Respondent Commission to release to the Appellant and other interested parties certain legal opinions in time to permit comment thereon prior to the Commission making its report. The time within which that report is required to be submitted is presently fixed at June 30, 1986.

The operative provision of Order in Council P.C. 1985-348 constituting the Commission provides:

> THEREFORE, the Committee of the Privy Council, on the recommendation of the Prime Minister, advise that, pursuant to the Inquiries Act, a Commission do issue under the Great Seal of Canada, appointing the Honourable Mr. Justice

> Jules Deschênes, of the Superior Court of Quebec, to be Commissioner under Part I of the Inquiries Act to conduct such investigations regarding alleged war criminals in Canada, including whether any such persons are now resident in Canada and when and how they obtained entry to Canada as in the opinion of the Commissioner are necessary in order to enable him to report to the Governor in Council his recommendations and advice relating to what further action might be taken in Canada to bring to justice such alleged war criminals who might be residing within Canada, including recommendations as to what legal means are now available to bring to justice any such persons in Canada or whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes.

These proceedings are concerned only with the mandate to recommend and advise what further action might be taken to bring to justice alleged war criminals resident in Canada. Any recommendations and advice to that end will necessarily be predicated on a finding that one or more such persons are presently resident in Canada and this matter has been dealt with on the assumption that such will be found to be the case.

The Order in Council also provided that:

> (a) the Commissioner be authorized to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the inquiry and to sit at such times and at such places within or outside of Canada as he may decide from time to time;

Pursuant to that authority the Commission made rules, including Rule No. 9:

> The Commission may grant standing to outside parties or their counsel, at its sole discretion and for such sittings or purposes as it may decide. Once granted standing, such party or counsel may cross-examine witnesses on matters relevant to their interests.

The Appellant, on its application, was given standing in the following terms:

> ...The Commission wishes to stress this moment that the situation is not that the applicant would count among its members relatives or grandchildren of victims, but it does indeed have among its membership victims themselves of the Nazi persecutions.
>
> On that basis, the Commission is of the view that the applicant has a special and direct interest in the object of this Inquiry. ...

The Appellant's interest is that of the victims of war crimes.

On June 25, 1985, by press release, the Commission announced:

> The Commission's terms of reference require it "...to report to the Governor in Council (its) recommendations and advice relating to what further action might be taken in Canada to bring to justice such alleged war criminals who might be residing within Canada, including recommendations as to what legal means are now available to bring to justice any such persons in Canada or whether and what legislation might be adopted by the Parliament of Canada to ensure that war criminals are brought to justice and made to answer for their crimes."
>
> The discharge of this mandate raises complex legal problems in various areas: criminal law, international law, immigration, citizenship, naturalization, extradition, deportation and so on.
>
> To assist in its task, the Commission has set up a working group of eight professors and practitioners from across Canada; in alphabetical order they are:
>
> ...
>
> Those experts are to report to the Commission by September 1, 1985.

The report of an interdepartmental committee to the Government of Canada in 1980 was first made public at a Commission hearing on July 10, 1985. The burden of that report is that nothing could legally be done to bring war criminals in Canada to justice. At the hearing on July 11, 1985, the Appellant requested the timely production to interested parties of the reports of the working group. The Commissioner declined to commit himself on the request. On September 23, 1985, the Appellant moved formally for production of the reports. That motion was refused in the following terms:

> ...I may change my mind. If so, I will, of course, tell you. For the time being, I am not inclined to put these opinions on the table for purposes of further discussions.
>
> I feel that I have received enough advice in legal fields to be able to use up much of my time between now and the target date that has been given to this Commission. I think I have all the material I need, including, Mr. Matas, your own numerous briefs and speeches and so on. I do not think I would need any additional legal literature.

At the time, the Commission's report was required to be submitted to the Governor in Council on or before December 31, 1985.

In his decision, the learned trial judge dealt at some length with the question whether solicitor-client privilege attached to the reports. It is by no means clear from the record that such was claimed and it was not claimed by the Commission in this appeal. I should prefer not to express a settled opinion on that matter.

The Commission acknowledges that it owes a duty of fairness to the Appellant but takes the position that the duty has been discharged. The Appellant, and others granted status, have had and taken the opportunity to present their own views, both on what might be done under the existing law and what legislation might be adopted to bring war criminals resident in Canada to justice, and have also commented on the views presented by the others. One gets the impression that the Appellant's input in this area has been voluminous.

The Commission submits that, when action is taken on its report, meaningful opportunities will arise for interested parties to take issue with its recommendations and advice. The Appellant points out that one possibility, clearly contrary to its interest, is that the Commission will conclude that there is no legal recourse, either under existing law or new legislation, to bring the alleged war criminals to justice and that, if the government accepts that conclusion, no such opportunity will, in fact, arise. The Appellant's apprehension is nourished by the fact of governmental inaction over the decades. That inaction, at least recently and in part, has been sustained by the interdepartmental legal opinion that there was no alternative.

In the particular circumstances of this Commission, the reports of the working group will not play the peripheral or incidental role which legal opinions usually play in the result of an inquiry. Instead, they are directed precisely to matters which the Commission is expressly required to address in its report. They are in the nature of expert evidence and to be dealt with accordingly. One would ordinarily expect the advice to a commission of any independent expert chosen by it to carry significant weight. The degree of an expert's interest, if any, in the outcome of the proceeding is always a criterion against which the validity of his opinion is to be measured. We do not, of course, know what the reports have concluded. They may, in greater or lesser measure, support the views already presented by the Appellant or by some other party granted status. What is clear is that, to the extent they favour the position of one, they will militate against that of another. While there is, of course, no *lis* between the Commission and any of the parties granted standing before it, it is pure sophistry to suggest that the opinions of its working group are not certain to be a significant part of the case against the interests of one or more of the Appellant and others granted standing. It cannot be said that the opportunity afforded the Appellant and other interested parties to present their own views and comment on the views of others fulfils the duty of fairness absent the opportunity to comment on the opinions of the independent experts.

It is trite law that what is required to discharge the duty of fairness varies with the circumstances of each case. In the present circumstances, I am satisfied that the opportunity to comment on the working group's reports is required. Fairness does not, however, in my opinion, demand that opportunities be afforded for further comment on the comments others may make on those reports.

Finally, the time limit imposed on the delivery of the Commission's report will be a factor properly to be taken into account by the Commission in giving effect to the judgment herein. The need to meet that time limit cannot be permitted to deprive the parties entitled thereto of their meaningful opportunity to comment.

I would dismiss the appeal as to the refusal of *certiorari* but allow it as to the refusal of *mandamus*. I would order that the Commission make copies of the working group's reports available to the Appellant and the Intervenor, Canadian Jewish Congress, and that it afford them a reasonable opportunity to comment on those reports before it reaches its conclusion as to the advice and recommendations on those matters to be included in its report to the Governor in Council.

No costs were awarded in the Trial Division. In my opinion, this is not a case for costs.

"P.M. MAHONEY"
J.F.C.C.

"I concur
Darrel V. Heald
J.F.C.C."

"I concur
A.J. Stone
J."

FEDERAL COURT OF CANADA

Names of counsel and solicitors of record

COURT FILE NO.: A-87-86

STYLE OF CAUSE: League for Human Rights of B'Nai Brith Canada v. Commission of Inquiry on War Criminals

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: May 7, 1986

REASONS FOR JUDGMENT BY Mahoney J.,
CONCURRED IN BY Heald, Stone JJ.
DATED May 9, 1986

APPEARANCES:

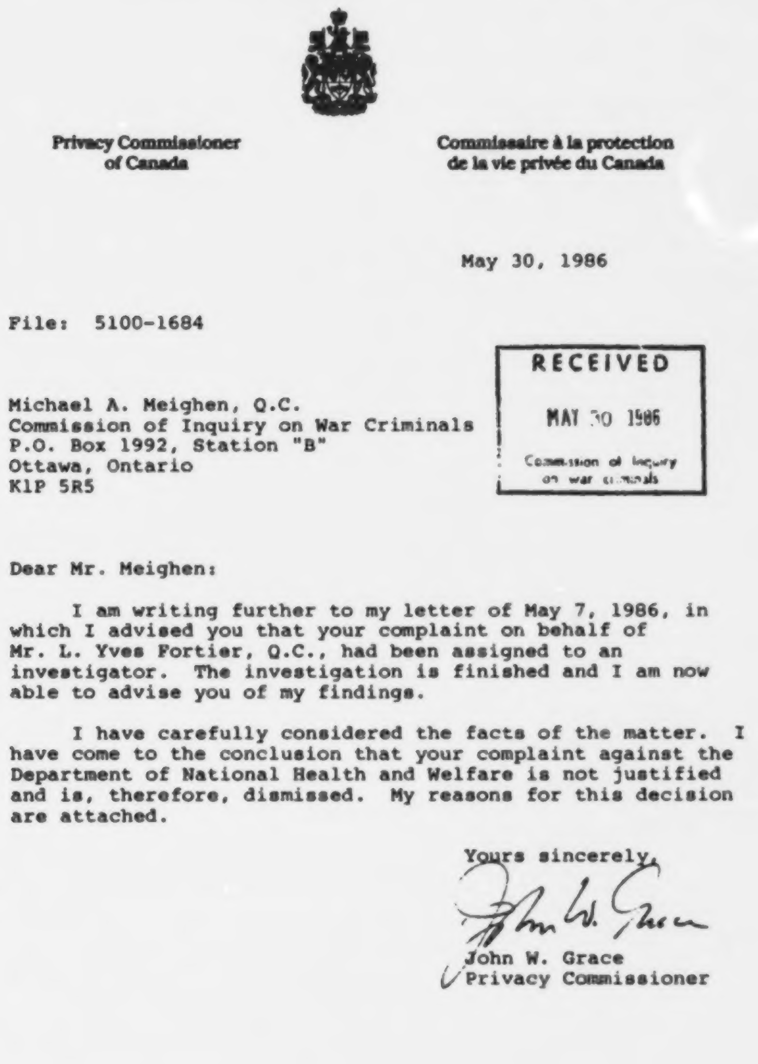
David Matas, Esq. & Martin Kurz, Esq.	for the Appellant
Yves Fortier, Q.C. & William W. McNamara	for the Respondent

SOLICITORS OF RECORD:

David Matas, Esq. Winnipeg, Manitoba	for the Appellant
Ogilvy, Renault Montreal, Quebec	for the Respondent

APPENDIX I-S

THE PRIVACY COMMISSIONER AND THE MINISTER OF NATIONAL HEALTH AND WELFARE



Privacy Commissioner of Canada **Commissaire à la protection de la vie privée du Canada**

May 30, 1986

File: 5100-1684

RECEIVED
MAY 30 1986
Commission of Inquiry on war criminals

Michael A. Meighen, Q.C.
Commission of Inquiry on War Criminals
P.O. Box 1992, Station "B"
Ottawa, Ontario
K1P 5R5

Dear Mr. Meighen:

I am writing further to my letter of May 7, 1986, in which I advised you that your complaint on behalf of Mr. L. Yves Fortier, Q.C., had been assigned to an investigator. The investigation is finished and I am now able to advise you of my findings.

I have carefully considered the facts of the matter. I have come to the conclusion that your complaint against the Department of National Health and Welfare is not justified and is, therefore, dismissed. My reasons for this decision are attached.

Yours sincerely,

John W. Grace

John W. Grace
Privacy Commissioner

OTTAWA, CANADA
K1A 1H3

Privacy Commissioner
of Canada

Commissaire à la protection
de la vie privée du Canada

CANADA) IN THE MATTER OF a complaint
by L. Yves Fortier, Q.C., pursuant to
sections 29 and 30 of the Privacy Act

The complaint relates to the refusal of the Minister of National Health and Welfare, as head of a government institution, to provide certain requested information relating to a particular individual.

FACTS:

1. On July 4, 1985, L. Yves Fortier, Q.C., Counsel to the Commission of Inquiry on War Criminals ("the Commission"), wrote to the General Counsel of the Department of National Health and Welfare requesting that the department release information regarding an individual to his Commission. This letter states that the Commission has been designated as an "investigative body" by the Governor in Council and requests that certain information be disclosed to the Commission pursuant to paragraph 8(2)(e) of the Privacy Act for it to carry out its investigation.

   (Paragraph 8(2)(e) permits institutions to release personal information to "investigative bodies" to carry out lawful investigations.)

2. On September 6, 1985, the Director of Legal Services for the Department of National Health and Welfare acknowledged the request and one of the department's lawyers subsequently sent the information to Mr. Fortier.

3. The authority for an institution to disclose personal information pursuant to paragraph 8(2)(e) rests with the head of the institution, in this case, the Minister of National Health and Welfare. The Minister had not delegated this authority at the time the information was released.

..2

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4. On October 8, 1985, L. Yves Fortier, Q.C. made another request for personal information.

5. As a result of this second request, the Department of National Health and Welfare asked the Deputy Minister of Justice for an opinion about the legality of this type of release of personal information, citing concerns about subsection 19(2) of the Old Age Security Act, which restricts the release of information.

   Ivan Whitehall, General Counsel of the Department of Justice, acting on behalf of the Department of National Health and Welfare, denied the Commission's second request.

FINDINGS

The Privacy Act requires the Privacy Commissioner to receive and investigate complaints about any matter relating to the use or disclosure of personal information under the control of a government institution. This complaint deals with the refusal to disclose personal information, although the information does not concern the individual who made the request. The Privacy Commissioner investigated the matter.

Subsection 8(1) of the Privacy Act defines the general principle applicable to the disclosure of personal information. The principle contemplates that the personal information under the control of a government institution shall not be disclosed without the consent of the individual concerned. However, exceptions are provided within that section of the Act. Paragraph 8(2)(e) provides that "Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed (e) to an investigative body specified in the regulations, on the written request of that body".

The Commission of Inquiry on War Criminals is an investigative body as specified in paragraph 8(2)(e) of the Privacy Act and, through the complainant, properly requested the personal information.

..3

However, the Privacy Act is not an "access to information" statute except insofar as it guarantees an individual access to personal information about himself or herself. This is supported by the observation that while subsection 35(5) requires the Privacy Commissioner to inform the "complainant" of his right to appeal to the Federal Court, section 41 limits that right of appeal to "an individual" who has been refused access to personal information requested under subsection 12(1). Therefore, it would seem that the only persons who may bring complaints relating to refusals of access to personal information under section 29 are individuals seeking personal information about themselves.

In any event, even if there is a duty imposed on the Privacy Commissioner under section 29 to investigate, it is subject to other provisions of the Privacy Act. Thus, he must respect the direction of subsection 8(2) that the authority of a head of a government institution to disclose information to the Commission is subject to limitations found in other acts of Parliament. Subsections 19(1) and 19(2) of the Old Age Security Act, impose on their face such limitations in the matter before the Privacy Commissioner.

Moreover, subsection 8(2) of the Privacy Act enables a government institution to disclose, but does not require such disclosure. The head of a government institution is not obliged to comply with a request but may exercise his discretion to release.

The Department of National Health and Welfare told the applicant that it was exercising its discretion to withhold the information relying on the provisions of subsections 19(1) and 19(2) of the Old Age Security Act in doing so.

Since the Privacy Commissioner's obligation to receive and investigate complaints is subject to other provisions of the Privacy Act, and since any information released under paragraph 8(2)(e) is released at the discretion of the head of the government institution, the Privacy Commissioner finds that the complaint is not one in which a report under subsection 35(1) of the Privacy Act could resolve the dispute between the two parties.

..4

To the extent the dispute concerns the Minister of National Health and Welfare's obligation to provide information to L. Yves Fortier, Q.C., this involves an interpretation of section 19 of the Old Age Security Act, which might more appropriately be resolved by a court of law.

The Privacy Act gives the head of the government institution discretion to withhold information. He exercised this discretion.

It is the opinion of the Privacy Commissioner that the complaint of L. Yves Fortier, Q.C., against the Department of National Health and Welfare is not justified and is therefore dismissed.

John W. Grace

John W. Grace
Privacy Commissioner

Dated at Ottawa this 30th day of May 1986.

APPENDIX I-T

ORDER-IN-COUNCIL P.C. 1986-2255

P.C. 1986-2255

CANADA

PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by Her Excellency the Governor General on the 30th day of September, 1986.

WHEREAS the Commission of Inquiry on War Criminals was directed to submit a report to the Governor in Council embodying its findings, recommendations and advice on or prior to September 30, 1986;

AND WHEREAS, due to the delays induced in the Commission's work, the necessity has arisen to provide the Commission with additional time to prepare and submit its final report;

THEREFORE, the Committee of the Privy Council, on the recommendation of the Prime Minister, pursuant to Part I of the Inquiries Act, advise that a commission do issue amending the Commission issued pursuant to Orders in Council P.C. 1985-348 of February 7, 1985, P.C. 1985-635 of February 28, 1985, P.C. 1985-3642 of December 12, 1985, and P.C. 1986-1333 of June 5, 1986, by deleting therefrom the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to September 30, 1986, and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;"

and by substituting therefor the following paragraph:

> "And We Do Further direct Our said Commissioner to submit a report to the Governor in Council embodying his findings and recommendations and advice on or prior to November 30, 1986, and to file with the Clerk of the Privy Council his papers and records as soon as reasonably may be after the conclusion of the inquiry;".

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

P. Tellier

CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

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